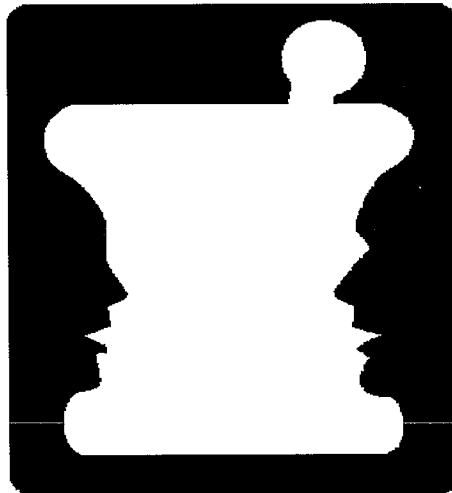


# DISCIPLINARY GUIDELINES

## A Manual of Disciplinary Guidelines and Model Disciplinary Orders



***BE AWARE & TAKE CARE:  
Talk to your pharmacist!***

**California State Board of Pharmacy  
Department of Consumer Affairs  
(Rev. ~~1/2001~~10/2007)**

Deletions to the regulatory text are indicated by double strike-through, thus: ~~deleted language~~.  
Additions to the regulatory text are indicated by a double underline, thus: added language.

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**BOARD OF PHARMACY**  
**DISCIPLINARY GUIDELINES**

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# DEPARTMENT OF CONSUMER AFFAIRS STATE BOARD OF PHARMACY

## DISCIPLINARY GUIDELINES (Rev. ~~4/2004~~10/2007)

### INTRODUCTION

The Board of Pharmacy (board) is responsible for the enforcement of statutes and regulations related to the practice of pharmacy (the Pharmacy Law) and to the regulation of controlled substances (the Uniform Controlled Substances Act). The board serves the public by:

- ❑ protecting the health, safety, and welfare of the people of California with integrity and honesty;
- ❑ advocating the highest quality of affordable pharmaceutical care;
- ❑ providing the best available information on pharmaceutical care; and
- ❑ promoting education, wellness and quality of life.

Pharmacists are patient advocates who provide pharmaceutical care and exercise clinical judgment for the citizens of California, enlightening them about their drug therapy through effective communicating and listening, assessing, collaborating, understanding and intervening. ~~In addition, enforcement officials are provided the resources to act quickly, consistently and efficiently in the public's interest to ensure the safe, effective delivery of these services.~~

The board recognizes the importance of ensuring the safe and effective delivery of dangerous drugs and controlled substances for therapeutic purposes. At the same time, and given the historical and current abuse and diversion of drugs, particularly controlled substances, the board believes there should be no tolerance for licensees who traffic in drugs or who, in the absence of appropriate evidence of rehabilitation, personally abuse drugs or alcohol.

In accordance with ~~section~~ Section 1760 of the California Code of Regulations, the board has produced this booklet for those involved in and affected by the disciplinary process: the general public, attorneys from the Office of the Attorney General, administrative law judges from the Office of Administrative Hearings, defense attorneys, board licensees, the courts, board staff and board members who review and vote on proposed decisions and stipulations.

These guidelines are to be followed in Board of Pharmacy disciplinary actions. Subject to judicial review, the ~~The~~ board has the final authority over the disposition of its cases, and, to complete its work, it uses the services of the Office of the Attorney General and the Office of Administrative Hearings. The board recognizes that individual cases may necessitate a departure from these guidelines. In such cases, the mitigating or aggravating circumstances shall be detailed in any proposed decision or any transmittal memorandum accompanying a proposed stipulation, especially where Category III violations are involved.

~~The board has found that accusations are rarely filed except in serious cases.~~ In general, the position of the board is that revocation should always be an option whenever grounds for

discipline are found to exist. Board policy is that revocation is generally an appropriate order where a respondent is in default, such as when he or she fails to file a notice of defense or fails to appear at a disciplinary hearing.

Board policy is that a suspension, where imposed, should be at least 30 days for an individual and at least 14 days for a licensed premises.

The board seeks recovery of all investigative and prosecution costs up to the hearing in all disciplinary cases. This includes all charges of the Office of the Attorney General, including, but not limited to, those for legal services, and includes charges by expert consultants. The board believes that the burden of paying for disciplinary cases should fall on those whose conduct requires investigation and prosecution, not upon the profession as a whole.

The board recognizes there may be situations where an individual licensee deserves a stronger penalty than the pharmacy for which he or she works, but the board also believes in holding a pharmacy owner, manager, and/or pharmacist-in-charge responsible for the acts of ~~their employees who operate the pharmacy personnel~~. Similarly, the board recognizes that in some cases a licensed premises may well be more culpable than any individual licensed by or registered with the board.

For purposes of these guidelines "board" includes the board and/or its designees.

## FACTORS TO BE CONSIDERED IN DETERMINING PENALTIES

Section 4300 of the Business and Professions Code provides that the board may discipline the holder of, and suspend or revoke, any certificate, license or permit issued by the board.

In determining whether the minimum, maximum, or an intermediate penalty is to be imposed in a given case, factors such as the following should be considered:

1. actual or potential harm to the public
2. actual or potential harm to any consumer
3. prior disciplinary record, including level of compliance with disciplinary order(s)
4. prior warning(s) ~~of record(s)~~, including but not limited to citation(s) and fine(s), letter(s) of admonishment, and/or correction notice(s)
5. number and/or variety of current violations
6. nature and severity of the act(s), offense(s) or crime(s) under consideration
7. aggravating evidence
- ~~7-8.~~ mitigating evidence
- ~~8-9.~~ rehabilitation evidence
- ~~9-10.~~ compliance with terms of any criminal sentence, parole, or probation
- ~~10-11.~~ overall criminal record
- ~~11-12.~~ if applicable, evidence of proceedings for case being set aside and dismissed pursuant to ~~section~~ Section 1203.4 of the Penal Code
- ~~12-13.~~ time passed since the act(s) or offense(s)
- ~~13-14.~~ whether the conduct was intentional or negligent, demonstrated incompetence, or, if the respondent is being held to account for conduct committed by another, the respondent had knowledge of or knowingly participated in such conduct
- ~~14-15.~~ financial benefit to the respondent from the misconduct.

No single one or combination of the above factors is required to justify the minimum and/or maximum penalty in a given case, as opposed to an intermediate one.

## MITIGATING EVIDENCE

A respondent is permitted to present mitigating circumstances at a hearing or in the settlement process and has the burden of demonstrating any rehabilitative or corrective measures he or she has taken. The board does not intend, by the following references to written statements, letters, and reports, to waive any evidentiary objections to the form or admissibility of such evidence. The respondent must produce admissible evidence in the form required by law in the absence of a stipulation to admissibility by the complainant.

The following are examples of appropriate evidence a respondent may submit to demonstrate his or her rehabilitative efforts and competency:

- a. Recent, dated written statements and/or performance evaluations from persons in positions of authority who have on-the-job knowledge of the respondent's current competence in the practice of pharmacy including the period of time and capacity in which the person worked with the respondent. Such reports must be signed under penalty of perjury and will be subject to verification by board staff.
- b. Recent, dated letters from counselors regarding the respondent's participation in a rehabilitation or recovery program, which should include at least a description and requirements of the program, a psychologist's diagnosis of the condition and current state of recovery, and the psychologist's basis for determining rehabilitation. Such letters and reports will be subject to verification by board staff.
- c. Recent, dated letters describing the respondent's participation in support groups, (e.g., Alcoholics Anonymous, Narcotics Anonymous, professional support groups, etc.). Such letters and reports will be subject to verification by board staff.
- d. Recent, dated laboratory analyses or drug screen reports, confirming abstention from drugs and alcohol. Such analyses and reports will be subject to verification by board staff.
- e. Recent, dated physical examination or assessment report by a licensed physician, confirming the absence of any physical impairment that would prohibit the respondent from practicing safely. Such assessments and reports will be subject to verification by board staff.
- f. Recent, dated letters from probation or parole officers regarding the respondent's participation in and/or compliance with terms and conditions of probation or parole, which should include at least a description of the terms and conditions, and the officer's basis for determining compliance. Such letters and reports will be subject to verification by board staff.



## TERMS OF PROBATION – PHARMACIST/INTERN PHARMACIST

A minimum three-year probation period has been established by the board as appropriate in most cases where probation is imposed. A minimum five-year probation period has been established by the board as appropriate where self-administration or diversion of controlled substances is involved. Terms and conditions are imposed to provide consumer protection and to allow the probationer to demonstrate rehabilitation. A suspension period may also be required as part of the probation order. The board prefers that any stayed order be for revocation rather than for some period of suspension.

Probation conditions are divided into two categories: (1) standard conditions that shall appear in ~~all~~ all probation cases, and (2) optional conditions that depend on the nature and circumstances of a particular case. These conditions may vary depending on the nature of the offense(s).

The board may also impose any other condition appropriate to the case where the condition is not contrary to public policy.

## CATEGORIES OF VIOLATIONS AND RECOMMENDED PENALTIES

The California Pharmacy Law ~~specifies the~~ identifies offenses for which the board may take disciplinary action against the license. ~~The following are categories of violations used by the board in determining appropriate disciplinary penalties.~~ Included among grounds for discipline are violations of the Pharmacy Law itself, violations of regulations promulgated by the board, and violations of other state or federal statutes or regulations.

The following are categories of possible violations used by the board to determine appropriate disciplinary penalties. These categories represent the judgment of the board as to the perceived seriousness of particular offenses.

Under each category, the board has grouped statutes and regulations where violations would typically merit the recommended range of minimum to maximum penalties for that category. These lists are representative, and are not intended to be comprehensive or exclusive. Where a violation not included in these lists is a basis for disciplinary action, the appropriate penalty for that violation may be best derived by comparison to any analogous violation(s) that are included. Where no such analogous violation is listed, the category descriptions may be consulted.

These categories assume a single violation of each listed statute or regulation. For multiple violations, the appropriate penalty shall increase accordingly. Moreover, if an individual has committed violations in more than one category, the minimum and maximum penalties shall be those recommended in the highest category.

The board also has the authority, pursuant to Business and Professions Code section 4301(n), to impose discipline based on disciplinary action taken by another jurisdiction. The discipline imposed by the board will depend on the discipline imposed by the other jurisdiction, the extent of the respondent's compliance with the terms of that discipline, the nature of the conduct for which the discipline was imposed, and other factors set forth in these guidelines.

## CATEGORY I

Minimum: Revocation; Revocation stayed; one year probation. All standard terms and conditions shall be included and optional terms and conditions as appropriate.

Maximum: Revocation

Category I discipline is recommended for:

- violations which are relatively minor but are potentially harmful
- repeated violations of a relatively minor nature:

Violations of the following codes are as follows representative of this category:

## BUSINESS AND PROFESSIONS CODE

### Article 3. Scope of Practice and Exemptions

- 4052.1 Skin Puncture by Pharmacist; Conditions Permitting  
4052.5 Pharmacist May Select Different Form of Medication with Same Active Chemical Ingredients; Exceptions  
4052.7 Repackage Previously Dispensed Drugs; Requirements  
4053 Exemptee Supervisor of Manufacturers, Wholesalers, and Licensed Laboratories; Veterinary Food Animal Drug Retailers etc.; Requirements  
4054 Supplying Dialysis Drugs Supply by Manufacturer, etc. of Certain Dialysis Drugs and Devices  
4055 Sale of Devices to Licensed Clinics, etc.  
4056 Exempt Hospitals Purchase of Drugs at Wholesale – Hospital Containing 100 Beds or Less  
4057 Exempt Articles Exceptions to Application of this Chapter  
4058 License to be Displayed Display of Original License  
4062 Furnishing Drugs during Emergency Furnishing Dangerous Drugs During Emergency  
4064 Emergency Refills of Prescription Without Prescription Authorization  
4065 Administration through Injection Card System Injection Card System; Requirements of Administration  
4066 Furnishing to Ocean Vessel Furnishing Dangerous Drugs to Master or First Officer of Vessel  
4068 Dispense Dangerous Drug or Controlled Substance to Emergency Room Patient; Requirements

### Article 4. Requirements for Prescription

- 4070 Reduction of Oral or Electronic Prescription to Writing  
4071 Prescriber's Agent Transmitting Prescriptions Prescriber May Authorize Agent to Transmit Prescription; Schedule II Excluded  
4072 Transmitting Prescriptions from a Health Care Facility Oral or Electronic Transmission of Prescription – Health Care Facility  
4073 Drug Product Selection Substitution of Generic Drug – Requirements and Exceptions  
4074 Drug Warnings Drug Risk: Informing Patient; Providing Consultation for Discharge Medications  
4076 Prescription Label Requirements Prescription Container – Requirements for Labeling  
4077 Labeling Dispensing Dangerous Drug in Incorrectly Labeled Container

### Article 5. Authority of Inspectors

- 4082 Information about Personnel Names of Owners, Managers and Employees Open for Inspection

## Article 6. General Requirements

- 4100 ~~Change of Name or Address or Name – Notification to Board~~
- 4102 ~~Skin Puncture for Patient Training~~
- 4103 ~~Blood Pressure Measurement– Taking by Pharmacist~~

## Article 7. Pharmacies

- 4114 ~~Intern Pharmacist Activities; Activities Permitted~~
- 4119 ~~Emergency Kit for Licensed Health Care Facilities~~Furnish Prescription Drug to Licensed Health Care Facility – Secured
- 4119.1 ~~Pharmacy May Provide Services to Health Facility~~
- 4119.5 ~~Transferring or Repackaging Drugs~~Transfer or Repackaging Dangerous Drugs by Pharmacy
- 4121 ~~Prescription Price Advertising~~Advertisement for Prescription Drug: Requirements; Restrictions
- 4122 ~~Requests for Prescription Price Information~~Required Notice at Availability of Prescription Price Information, General Product Availability, Pharmacy Services; Providing Drug Price Information; Limitations on Price Information Requests
- 4123 ~~Pharmacy contracts for Compounding of Parenteral Drugs~~Compounding Drug for Other Pharmacy for Parenteral Therapy; Notice to Board
- 4124 ~~Contact Lens Dispensing~~Dispensing Replacement Contact Lenses: Requirements; Patient Warnings; Registration with Medical Board; Application of Section to Nonresident Pharmacies

## Article 9. Hypodermic Needles and Syringes

- 4141 ~~License Required~~Furnishing Without License
- 4142 ~~Prescription Required~~
- 4143 ~~Exemption: Wholesale Sales~~ Sale to Other Entity, Physician, etc.
- 4144 ~~Exemption: Industrial Uses~~Industrial Use Exception
- 4145 ~~Exemption: Human (Insulin; Adrenaline) or Animal Use~~Exception: Furnishing for Administration of Insulin, Adrenaline, or Specified Animal Uses; Conditions
- 4146 ~~Hypodermic Register~~
- 4148 ~~Confiscation if Found Outside Licensed Premises~~
- 4149 ~~Nonresident~~ Sale by Distributor

## Article 10. Pharmacy Corporations

- 4151 ~~Licensure Requirements for Shareholders, Directors, and Officers~~
- 4152 ~~Corporate Name~~ Requirements
- 4153 ~~Shareholder Income While Disqualified~~
- 4156 ~~Unprofessional Conduct~~ by Corporation

## Article 11. Wholesalers and Manufacturers

- 4161 ~~Out-of-State Manufacturer or Nonresident Wholesaler: When License Required;~~ Application
- 4162 ~~Registration – Agent~~ Issuance or Renewal of Wholesaler License; Surety Bond
- 4163 ~~Sales to Unauthorized Persons~~ Furnishing by Manufacturer or Wholesaler
- 4165 ~~Sale or Transfer of Dangerous Drug or Device Into State;~~ Furnishing Records to

- 4166 Authorized Officer on Demand; Citation for Non-compliance  
Responsibility Until DeliveryShipping of Dangerous Drugs or Devices – Wholesaler  
or Distributor
- 4167 Bar on Obtaining More Than Can Be Stored on Licensed PremisesWholesaler: Bar  
on Obtaining Dangerous Drugs or Devices It Cannot Maintain on Licensed  
Premises

### Article 13. Non-Profit or Free Clinics

- 4180 License Required (Non-Profit, etc Clinics)Purchase of Drugs at Wholesale Only with  
License: Eligible Clinics
- 4181 License Requirements; Policies and Procedures; Who May Dispense
- 4182 Application; Consulting PharmacistDuties of Professional Director; Consulting  
Pharmacist Required
- 4183 No Medi-Cal Professional Dispensing Fee
- 4184 No Schedule II Dispensing Schedule II Substance Prohibited
- 4186 Professional DirectorAutomated Drug Delivery Systems

### Article 14. Surgical Clinics

- 4190 Purchase of Drugs at Wholesale: Permitted Uses of Drugs; Required Records and  
Policies; License Required (Surgical Clinic)
- 4191 License RequirementsCompliance with Department of Health Services  
Requirements; Who May Dispense Drugs
- 4192 Duties of Professional Director; Providing Information to Board
- 4193 Clinic Not Eligible for Professional No Medi-Cal Dispensing Fee; Ban on Offering  
Drugs for Sale
- 4194 No Schedule II Dispensing of Schedule II Substance by Clinic Prohibited; Physician  
May Dispense; Administration Authorized in Clinic

### Article 15. Veterinary Food-Animal Drug Retailers

- 4196 License Required; Temporary License; Security on Transfer of Ownership; Persons  
Authorized in Storage Area
- 4197 Minimum Standards; Waiver; Security; Sanitation; Board Regulations; Waivers
- 4198 Written Policies and Procedures Required; Contents; Training of Personnel;  
Quality Assurance; Consulting Pharmacist

### Article 17. Continuing Education

- 4231 Renewal Requirements for Renewal of Pharmacist License: Clock Hours;  
Exemption for New Licensee
- 4232 Course Content of Course

### Article 18. Poisons

- 4240 Application of Act

### Article 20. Prohibitions and Offenses

- 4341 ~~Advertising in Compliance with Sections 651.3~~Advertisement of Prescription Drugs or Devices
- 4343 ~~Use of Sign with "Pharmacy" or Similar Terms~~Buildings: Prohibition Against Use of Certain Signs Unless Licensed Pharmacy Within

## CALIFORNIA CODE OF REGULATIONS, TITLE 16

- 1704 ~~Change of Address~~address—reporting a change of address
- 1705 ~~Notification of Bankruptcy, Receivership or Liquidation—reporting the sale, inventory and location of records of dangerous drugs by a pharmacy, wholesaler or manufacturer in bankruptcy~~
- 1708.2 ~~Discontinuance of Business~~business—notification to board of a discontinuance of business and submission of appropriate forms
- 1708.4 ~~Pharmacist hHandling rRadioactive dDrugs—training of a nuclear pharmacist~~
- 1708.5 ~~Pharmacy Furnishing Radioactive Drugs—nuclear pharmacy requirements~~
- 1709 ~~Names of Owners and Pharmacist in Charge~~pharmacist in charge—required information on a pharmacy permit, reporting PIC and owners on initial and renewal applications, and reporting of corporate officer changes
- 1712 ~~Use of Pharmacist Identifiers~~
- 1714 ~~Operational Standards and Security~~
- 1715.6 ~~Reporting dDrug lLoss—reporting loss of controlled substances to the Board within thirty (30) day~~
- 1716 ~~Variation fFrom pPrescriptions—prescription errors, deviation from prescription without consent of prescriber~~
- 1717 ~~Pharmaceutical pPractice—dispensing in new containers, pharmacist maintain on prescription record: date and initial of pharmacist, brand name of drug or device and indication if generic and manufacturer name, refill information, orally transmitted prescription requirements, depot of a prescription or a medication, prescription transfers, identification of pharmacist responsible for filling a prescription~~
- 1717.1 ~~Common Electronic Files—establishing a common electronic file to maintain required dispensing information~~
- 1717.4 ~~Electronic Transmission of Prescriptions—transmitting prescriptions by electronic means from prescriber to the pharmacy~~
- 1718.1 ~~Manufacturer's Expiration Date—handling of prescription drugs not bearing a manufacturer's expiration date pursuant to federal law~~
- 1726 ~~Preceptor~~Supervision of Intern Pharmacists
- 1727 ~~Intern Pharmacist~~
- 1728 ~~Intern Experience—Requirements for Licensure~~Examination
- 1732.1 ~~Requirements for Recognized Accredited Providers—requirements to provide continuing education courses as a recognized provider for California pharmacists~~
- 1732.3 ~~Coursework Approval for Providers~~Requirements for Continuing Education Courses
- 1732.4 ~~Provider Audit Requirements~~
- 1732.5 ~~Renewal Requirements for Pharmacist~~
- 1744 ~~Drug wWarnings—oral or written warnings when a drug should not be taken with alcohol or when a person should not drive~~
- 1746 ~~Emergency Contraception~~
- 1751 to
- 1751.09 and
- 1751.11 to

- ~~1751.12~~ ~~Compounding Area for Parenteral Solutions—parenteral therapy requirements for pharmacists and pharmacies~~
- 1751 Sterile Injectable Compounding Area
- 1751.01 Facility and Equipment Standards for Sterile Injectable Compounding from Non-Sterile Ingredients
- 1751.02 Policies and Procedures
- 1751.1 Laminar Flow Biological Safety Cabinet
- 1751.2 Labeling Requirements
- 1751.3 Recordkeeping Requirements
- 1751.4 Attire
- 1751.5 Training of Staff, Patient, and Caregiver
- 1751.6 Disposal of Waste Material
- 1751.7 Quality Assurance and Process Evaluation
- 1751.9 Reference Materials
- 1751.11 Furnishing to Home Health Agencies and Licensed Hospices
- 1751.12 Obligations of a Pharmacy Furnishing Portable Containers
- 1771 Posting a ~~n~~Notice of ~~s~~Suspension—suspended pharmacy must post a notice of suspension
- 1772 Disciplinary ~~e~~Conditions of ~~s~~Suspension—suspended pharmacist shall not enter a pharmacy prescription area or perform pharmacy related duties
- 1780 Minimum ~~s~~Standards for ~~w~~Wholesalers
- 1780.1 Minimum Standards for Veterinary Food-Animal Drug Retailers
- 1781 Exemption ~~e~~Certificate—exemptee must be present in a manufacturer's or wholesaler's licensed premises
- 1786 Exemptions—return of exemption certificate to board upon termination of employment
- 1787 Authorization to Distribute Hemodialysis Drugs and Devices
- 1790 Assembling and Packaging
- 1791 Labeling
- 1792 Receipt ~~of~~ for Shipment

## HEALTH AND SAFETY CODE, TITLE 22

- 11100 Report of Certain Chemical: Chemicals Included; Exclusions; Penalties~~controlled substance transaction—reporting sales of restricted chemicals to Department of Justice~~
- 11100.1 Report of Chemicals Received~~controlled substances received from~~ eOutside sState; Penalties~~—reporting Purchases of restricted chemicals from outside California~~
- ~~11124~~ ~~Inventory of Controlled Substances~~
- 11151 Limitation on Filling Prescriptions From Medical Students Issued By Unlicensed Person Lawfully Practicing Medicine
- 11158 Prescription ~~r~~Required for Schedule I, II, III, ~~or~~ IV, or V ~~e~~Controlled sSubstance; Exception for Limited Dispensing, Administrations—prescriptions for controlled substances must comply with requirements prior to dispensing
- 11159 Chart Order Exemption for ~~p~~Patient in eCounty or ~~I~~Licensed hHospital; Maintaining Record for Seven Years—controlled substance orders in hospitals
- 11159.1 Chart Order Exemption for Clinic Records Patient; Maintaining Record for Seven Years
- 11159.2 Exception to Triplicate Prescription Requirement ~~Terminally III~~ Exception

- 11167 Emergency dDispensing of Schedule II sSubstance: Circumstances and Requirements—~~emergency oral Schedule II prescriptions; must receive a triplicate within seventy-two (72) hours~~
- 11167.5 Emergency eOral or Electronic pPrescriptions for Scheduled II Controlled Substances for Specified iIn-patients, Residents, and Home Hospice Patients: Requirements—~~oral orders for Schedule II drugs in a skilled nursing facility, intermediate care facility, or a home health care agency providing hospice care; pharmacy to obtain special triplicates from Dept. of Justice; facility must forward all signed order to the pharmacy~~
- 11171 Prescribing, etc. administering, or furnishing eControlled sSubstance Only as Authorized—~~furnishing controlled substances must be consistent with law~~
- 11172 Antedating or pPostdating pPrescription Prohibited
- 11175 Prohibition on Obtaining and or pPossessiong nNonconforming pPrescription; Prohibition on eObtaining eControlled sSubstance by nNonconforming pPrescription
- 11180 Prohibition on Controlled sSubstance eObtained or pPossessed by nNonconforming pPrescription—~~possession of a controlled substance obtained from noncomplying prescriptions~~
- 11200 Restrictions on dDispensing or rRefilling; Refill of Schedule II Prescription Barred—~~refill restrictions of controlled substances~~
- 11201 Emergency Refill by Pharmacist of Schedule III, IV, or V Prescription: Circumstances; Requirements
- 11205 Maintenance and rRetention of Records in Separate fFile—~~separate prescription file for Schedule II prescriptions~~
- 11206 Required information information on Prescription—~~information required on a prescription for controlled substances~~
- 11209 Delivery and Receiving Requirements for Schedule II, III, and IV of Controlled Substances; Violation
- 11210 Issuing Prescription: By Whom; For What Purpose; Quantity to Be Prescribed—~~under authorized project—a prescriber may not prescribe controlled substances to treat addiction~~
- 11250 Authorized Retail Sale by Pharmacists to Physicians, etc.; Required Order Form
- 11251 Authorized Wholesale Sale by Pharmacists
- 11252 Preservation of fFederally rRequired fForms—~~a wholesaler or manufacturer must maintain records of sales~~
- 11253 Duration of rRetention
- 11255 Actions eConstituting sSale—~~orders for future delivery constitutes a sale of a controlled substance~~
- 11256 Required Report of Order bBy or Sale to Out-of-State Wholesaler or Manufacturer
- 111225 to
- 111655 Adulterated or Misbranded Drugs or Devices

## CODE OF FEDERAL REGULATIONS, TITLE 21

- 4-1301.11 Persons Rrequired to Rregister.
- 2-1301.12 Separate Rregistrations for Sseparate Llocations.
- 1301.71 Security requirements; generally.
- 1301.72 Physical security controls for non-practitioners; narcotic treatment programs and compounders for narcotic treatment programs; storage areas.
- 1301.73 Physical security controls for non-practitioners; compounders for narcotic treatment programs; manufacturing and compounding areas.



- 1301.74 Other security controls for non-practitioners; narcotic treatment programs and compounders for narcotic treatment programs.
- ~~4.1301.75~~ Physical security controls for practitioners.
- ~~2.1301.76~~ Other ~~S~~security ~~C~~ontrols for ~~P~~practitioners.
- 1301.90 Employee screening procedures.
- 1301.91 Employee responsibility to report drug diversion.
- 1301.92 Illicit activities by employees.
- 1302.03 Symbol required; exceptions.
- 1302.04 Location and size of symbol on label and labeling.
- 1302.05 Effective ~~D~~ates of ~~L~~abeling ~~R~~requirements.
- 1302.06 Sealing of controlled substances.
- 1302.07 Labeling and packaging requirements for imported and exported substances.
- 1304.11 Inventory requirements.
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- ~~1305.06 and~~
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- ~~1305.16~~—Distributions requiring order forms; persons entitled to obtain and execute order forms; procedure for obtaining order forms; procedure for executing order forms; persons entitled to fill order forms; procedure for filling order forms; procedure for endorsing order forms; unaccepted and defective order forms; lost and stolen order forms; return of unused order forms
- 1304.31 Reports from manufacturers importing narcotic raw materials.
- 1304.32 Reports of manufacturers importing coca leaves.
- 1304.33 Reports to ARCOS.
- 1305.03 Distributions requiring a Form 222 or a digitally signed electronic order.
- 1305.04 Persons entitled to order Schedule I and II controlled substances.
- 1305.05 Power of attorney.
- 1305.06 Persons entitled to fill orders for Schedule I and II controlled substances.
- 1305.11 Procedure for obtaining DEA Forms 222.
- 1305.12 Procedure for executing DEA Forms 222.
- 1305.14 Procedure for endorsing DEA Forms 222.
- 1305.15 Unaccepted and defective DEA Forms 222.
- 1305.16 Lost and stolen DEA Forms 222.
- 1306.03 Persons entitled to issue prescriptions.
- 1306.05 Manner of issuance of prescriptions.
- 1306.14 Labeling of substances and filling of prescriptions.—Schedule II.
- 1306.24 Labeling of substances and filing of prescriptions.—Schedule III and IV
- ~~4.1306.25~~ Transfer between pharmacies of prescription information for ~~of~~ Schedules III, IV, and V controlled substances for refill purposes. Prescriptions
- 1306.26 Dispensing ~~W~~without a ~~P~~rescription.
- 1307.11 Distribution by dispenser to another practitioner or reverse distributor.—
- 1307.12 Distribution to supplier or Manufacture, ~~and distribution of narcotic solutions and compounds by a pharmacist~~
- 1307.13 Incidental manufacture of controlled substances. ~~Distribution to supplier~~
- 1307.21 Procedure for disposing of controlled substances.
- 1700.1 to
- 1707.15 Child-resistant containers.

## MISCELLANEOUS -- HEALTH AND SAFETY CODE, TITLE 22

411225 to

411655 — Adulterated or misbranded drugs or devices

## MISCELLANEOUS -- FEDERAL REGULATIONS

46 CFR 1700.1 to




4707.15 — Child-resistant containers

## CATEGORY II

Minimum: Revocation; Revocation stayed, three years probation (five years probation where self-administration or diversion of controlled substances is involved). All standard terms and conditions shall be included and optional terms and conditions as appropriate.

Maximum: Revocation

Category II discipline is recommended for:

-  violations with a serious potential for harm
-  violations which involve greater disregard for pharmacy law and public safety
-  violations which reflect on ethics, care exercised or competence or a criminal conviction not involving dangerous drugs or controlled substances or involving possession or use of dangerous drugs or controlled substances.

Violations of the following codes are as follows representative of this category:

## BUSINESS AND PROFESSIONS CODE

650 Rebates or Discounts for Referral Prohibited

650.1 Lease Prohibition – Hospitals or Prescribers

651 Professional Advertising Requirements

## Article 3. Scope of Practice and Exemptions

- 4051(b) Conduct Authorized by Pharmacist from Outside Pharmacy
- 4052 conduct Authorized by Pharmacist Furnishing to Prescriber; Permissible Procedures by Pharmacist in Health Care Facility or Clinic or for Other Health Care Provider
- 4060 Possession of Controlled Substance – Prescription Required; Exceptions
- 4061 Distribution of Drug as Sample; Written Request Required
- 4063 Refills of Prescription for Dangerous Drug or Device; Prescriber Authorization
- 4067 Prescription Dispensing over the Internet; Dispensing Dangerous Drugs or Devices without Prescription
- 47934075 Proof of Identity Required – Oral or Electronic Prescription of Recipient for

Controlled Substance Prescriptions  
43054078 False or Misleading Labeling on Prescription

## **Article 6. General Requirements**

- 4101 ~~Termination as Pharmacist in Charge; Notice to Board; Exemptee: Termination of Employment; Notification to Board~~
- 4104 Licensed Employee; Theft or Impairment; Pharmacy Procedures
- 4105 Retaining Records on Premises of Dangerous Drugs and Devices on Licensed Premises; Temporary Removal; Waivers; Access to Electronically Maintained Records

## **Article 7. Pharmacies**

- 4112 Non-Resident Pharmacy; Registration; Provision of Information to Board; Maintaining Records; Patient Consultation
- 4113 Pharmacist in Charge; Notification to Board; Responsibilities
- 4115 Pharmacy Technician; Activities Permitted; Required Supervision; Activities Limited to Pharmacist; Registration; Requirements for Registration; Ratios
- 4115.5 Pharmacy Technician Trainee; Placement; Supervisions; Requirements
- 4116 Security of Dangerous Drugs and Devices in Pharmacy; Pharmacist Responsibility for Individuals on Premises; Regulations — Pharmacy
- 4117 Security — Hospital Pharmacy Admission to Area Where Narcotics are Stored, etc. — Who May Enter
- 4120 Non-Resident Pharmacy; Registration Required
- 4125 Pharmacy Quality Assurance Program Required; Records Considered Peer Review Documents

## **Article 9. Hypodermic Needle and Syringes**

- 4140 Unlawful Possession
- 4147 Disposal of Needle or Syringe

## **Article 11. Wholesalers and Manufacturers**

- 4160 Wholesaler; License Required
- 4163 Sales to Unauthorized Persons Furnishing by Manufacturer or Wholesaler
- 4164 Reporting by Manufacturer and Wholesalers Reports Required
- 4169(a)(1) Prohibited Acts

## Article 13. Non-Profit of Free Clinics

4185      Inspections Permitted

## Article 14. Surgical Clinics

4195      Inspection s Permitted

## Article 19. Disciplinary Proceedings

4301      ~~General u~~Unprofessional e~~Conduct and\_ subsections (a)-(h),\_(i), and (l) through \_~~(q)  
4302      ~~Pharmacy Corporation~~Discipline of Corporate Licensee for Conduct of Officer,  
Director, Shareholder  
4303      Nonresident Pharmacy: Grounds for Discipline  
4304      Out-of-Sstate Distributors: Authority to Discipline  
4305      Disciplinary Grounds: Failure of Pharmacy, Pharmacist to Notify Board of  
Termination of Pharmacist in Charge; Continuing to Operate Operation of  
Pharmacy wWithout a Pharmacist  
4305.5      Disciplinary Grounds: Failure of Other Entity Licensed by Board, of Pharmacist or  
Exemptee to Notify Board of Termination of Pharmacist in Charge or Exemptee;  
Continuing to Operate Without Pharmacist or Exemptee to Keep Pharmacist in  
Charge or Exemptee in Charge; Failure to Notify Board of Termination of Same  
4306      Violation of Moscone-Knox Professional Corporation Act as Unprofessional Conduct  
4306.5      Pharmacist-Misuse of Education, etc. by Pharmacist Outside Course of Practice of  
Pharmacy as Unprofessional Conduct

## Article 20. Prohibitions and Offenses

4326      ~~Hypodermics: Obtaining Falsely; Misuse~~Misdemeanor: Obtaining Needle or Syringe  
by Fraud, etc.; Unlawful Use of Needle or Syringe Obtained from Another  
4328      ~~Allowing Compounding by Non-pharmacist~~Misdemeanor: Permitting Compounding,  
Dispensing, or Furnishing by Non-pharmacist  
4330      ~~Pharmacy; Failure to Place Pharmacist in Charge, Subverting Compliance with~~  
~~Law by Pharmacist in Charge~~Misdemeanor: Non-pharmacist Owner Failing to  
Place Pharmacist in Charge, Dispensing or Compounding Except by Pharmacist,  
Interfering with Pharmacist in Charge  
4331      ~~Veterinary Food-Animal Drug Retailer; Dispensing by Other than Pharmacist or~~  
~~Exemptee; Failure to Place Pharmacist or Exemptee in Charge~~Misdemeanor:  
Medical Device Retailer, Wholesaler, Veterinary Food-Animal Drug Retailer Failing  
to Place Pharmacist or Exemptee in Charge, Permitting Dispensing or  
Compounding Except by Pharmacist or Exemptee  
4333      ~~Failure to Maintain Prescription Files~~Maintaining Prescriptions, Other Drug Records  
on Premises, Open to Inspection; Waiver; Willful Failure to Keep or Permit  
Inspection of Records of Prescriptions, Other Records as Misdemeanor  
4340      ~~Advertisement of Pharmacy Services by Unregistered Non-Resident~~  
~~Pharmacy~~Unlawful Advertising by Nonresident Pharmacy Not Registered with  
Board

## Article 22. Unfair Trade Practices

4380      Resale of Preferentially Priced Drugs; ~~Emergency Exception;~~ Prohibition;

### Exceptions

- 4381 Violation of Section 4380 as Unfair Competition; Right of Private Action to Enforce  
4382 ~~Authority of Board to Audit for Compliance~~Board May Audit Sales to Walk-in Customers

## CALIFORNIA CODE OF REGULATIONS, TITLE 16

- 1707.1 Duty to ~~mMaintain mMedication pProfiles (pPatient mMedication rRecords)—~~  
~~requirements for maintenance of patient medication profiles~~  
1707.2 Notice to ~~eConsumers and dDuty to eConsult—requirements of pharmacist to~~  
~~consult; posting of notice to consumers~~  
1707.3 ~~Reviewing the patient profile prior to consultation~~Duty to Review Drug Therapy and  
Patient Medication Record Prior to Delivery  
1709.1 Designation of ~~pPharmacist in eCharge~~  
1714.1 Pharmacy Operations ~~dDuring -the Temporary Absence of a~~ Pharmacist  
1715 Self-Assessment of a Pharmacy by the Pharmacist-in-Charge  
1715.5 ~~Transmitting Schedule II Prescription Information to CURES~~Implementation of  
Electronic Monitoring of Schedule II Prescriptions  
1716.1 Compounding Unapproved dDrugs for pPrescriber eOffice uUse  
1716.2 Record ~~rRequirements—when eCompounding for fFuture fFurnishing~~  
~~1717.2 Notice of Electronic Prescription Files~~  
1717.3 Preprinted, ~~mMultiple eCheck-off pPrescription bBlanks~~  
1723.1 Confidentiality of Examination Questions  
1745 Partial ~~fFilling of Schedule II pPrescriptions~~  
1751.10 Furnishing to ~~pParenteral pPatient at hHome—carrying and furnishing dangerous~~  
~~drugs to parenteral patients~~  
1761(a) Erroneous or Uncertain Prescriptions—  
1764 Unauthorized ~~dDisclosure of pPrescriptions—revealing the contents of a~~  
~~prescription to unauthorized persons~~  
1765 Commissions, ~~gGratuities, and rRebates—commission, gratuity or rebate to a~~  
~~health—care facility~~  
1766 False or ~~mMisleading aAdvertising~~  
1775.3 Compliance with Orders of Abatement  
1782 Reporting Sales of Drugs Subject to Abuse  
1783 Manufacturer or Wholesaler Furnishing Drugs or Devices  
~~1793.1 to~~  
~~1793.7 Ancillary personnel—pharmacy technician requirements and tasks~~  
1793.1 Duties of a Pharmacist  
1793.2 Duties of a Pharmacy Technician  
1793.3 Other Non-Licensed Pharmacy Personnel  
1793.7 Requirements for Pharmacies Employing Pharmacy Technicians  
1793.8 Technicians in Hospitals with Clinical Pharmacy Programs

## HEALTH AND SAFETY CODE, TITLE 22

- 11103 Report of ~~tTheft, lLoss, or sShipping dDiscrepancy—reporting losses of restricted~~  
~~chemicals to Department of Justice~~  
~~11123 Warehouseman License~~  
~~11124 Warehouse Inventory~~

- 11125 ~~Warehouseman Bond~~
- 11128 ~~Nontransferability of Warehouse License~~
- 11129 ~~Discipline or Denial of Warehouse License~~
- 11130 ~~Disciplinary Grounds for Warehouse License~~
- 11131 ~~Disciplinary Grounds for Warehouse License~~
- 11150 ~~Issuing Controlled Substance Persons Authorized to Write or Issue a Prescription~~
- 11152 ~~Nonconforming pPrescriptions Prohibited—filling a prescription that does not conform to the requirements of the code~~
- 11154 ~~Prescription, etc. Must Be for Treatment; Knowingly Issuing Prescriptions; Soliciting of Unlawful Prescription, etc.~~
- 11156 ~~Prescribing, etc. Administering or dispensing eControlled sSubstances to aAddict Only as Authorized—prohibition on administering or dispensing a controlled substance to an addict or a habitual user~~
- 11164 ~~Completion of pPrescriptions for Schedule II, III, IV and V eControlled sSubstances; Form and Content; Record of Practitioner Dispensing Schedule II Controlled Substances—prescription requirements for controlled substances~~
- 11166 ~~Time Limit For Filling Schedule II Prescriptions; Knowingly Filling Mutilated, Forged, or Altered Prescriptions Prohibited~~
- 11170 ~~Prohibition on Prescribing, etc. eControlled sSubstance for sSelf use—prohibition on prescribing, administering or furnishing controlled substance to self~~
- 11179 ~~Retention of Controlled Substance Prescription period—prescription file to be maintained for three (3) years~~
- 11207 ~~Filling prescription eOnly by pPharmacist or iIntern Authorized to Fill Prescription pharmacist—dispensing, compounding, filling by pharmacist or intern pharmacist only~~
- 11209 ~~Delivery and Receiving Requirements for Schedule II, III, & IV Substances; Violation~~
- 11350 ~~Possession of sSpecified eControlled sSubstance—illegal possession of a narcotic~~
- 11377 ~~Unlawful pPossession of sSpecified sSubstance—illegal possession of a non-narcotic controlled substance~~
- 11165(d) CURES Transmission
- 150204 Surplus Medication Collection and Distribution Program

## CODE OF FEDERAL REGULATIONS, TITLE 21

- 1304.03 Persons required to keep records and file reports.
- 1304.04 Maintenance of records and inventories.
- 1304.11 General Inventory requirements for inventories.
- 1304.21 General requirements for continuing records.
- 1304.22 Records for manufacturers.
- 1305.07 Power of attorneySpecial procedure for filling certain orders.
- 1305.13 Preservation of order formsProcedure for filling DEA Forms 222.
- 1306.04 Purpose of issue of prescription.
- 1306.06 Persons entitled to fill prescriptions.
- 1306.07 Administering or dispensing of narcotic drugs.
- 1306.11 Requirement of Schedule II Pprescriptions.
- 1306.12 Refilling prescriptions—Schedule II.
- 1306.13 Partial filling of prescriptions—Schedule II.
- 1306.21 Requirement of prescription—Schedule III and IV.
- 1306.22 Refilling of prescriptions—Schedule III and IV.

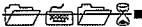
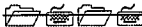
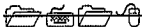
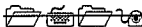

1306.23 Partial filling of prescriptions—~~Schedule III and IV.~~

### CATEGORY III

Minimum: Revocation; Revocation stayed, 90 days actual suspension, three to five years probation (five years probation where self-administration or diversion of controlled substances is involved). All standard terms and conditions and optional terms and conditions as appropriate.

Maximum: Revocation

Category III discipline is recommended for:

-  ~~most criminal convictions involving dangerous drugs or controlled substances~~
-  ~~knowing or willfully violating laws or regulations pertaining to dispensing or distributing dangerous drugs or controlled substances~~
-  ~~fraudulent acts committed in connection with the licensee's practice~~
-  ~~drug shortages~~
-  ~~violation of a licensee's corresponding responsibility.~~

Violations of the following codes are as follows~~representative of this category:~~

### BUSINESS AND PROFESSIONS CODE

#### Article 3. Scope of Practice and Exemptions

- 4034 ~~Pedigree~~
- 4051(a) ~~Conduct Limited To Pharmacist~~
- 4059 ~~Furnishing Dangerous Drugs or Devices Prohibited Without Prescription;~~  
~~Exceptions~~
- 4059.5 ~~Who May Ordering Dangerous Drugs or Devices; Exceptions~~

#### Article 5. Authority of Inspectors

- 4080 ~~Stock of Dangerous Drugs and Devices Kept Open for Inspection~~
- 4081 ~~Records of Acquisition and Dispensing; Inspection~~~~Dangerous Drugs and Devices Kept Open for Inspection; Maintenance of Records, Current Inventory~~
- 4085(a) ~~Unlawful to Remove, Sell, Dispose of Embargoed Dangerous Drug or Dangerous Device~~

#### Article 6. General Requirements

- 4105 ~~Retaining Records of Dangerous Drugs and Devices on Licensed Premises;~~  
~~Temporary Removal; Waivers; Access to Electronically Maintained Records~~

#### Article 7. Pharmacies

- 4110 ~~Requirement of License; Temporary Licenses~~~~Licensed Required; Temporary Permit~~

4111 Upon Transfer of Ownership  
Ownership by Prescribers ProhibitedRestrictions on Prescriber Ownership

## **Article 11. Wholesalers and Manufacturers**

4169(a)(2) to  
4169(a)(5) Prohibited Acts

## **Article 15. Veterinary Food-Animal Retailers**

4199 Labeling, Recordkeeping Requirements; Maintaining Prescription Records

## **Article 19. Disciplinary Proceedings**

4301 Unprofessional Conduct - Ssubsections (i) and\_ (k) and (o)  
4307 Prohibition Against Association with a Licensee of Association of Individual with Entity  
License by Board; Length of Prohibition; Individuals Covered; Imposition of  
Prohibition Through Administrative Act Proceeding  
4308 Notification of Licensee Person is Prohibited from Association;  
ReplacementProhibited Association: Notification of Affected Licensees Known to  
Board

## **Article 20. Prohibitions and Offenses**

4322 False Representation to Obtain LicensureMisdemeanor or Infraction: False  
Representations to Secure License for Self or Others; False Representation of  
Licensure; Penalties  
4323 False Representation by Telephone or Electronic Transmission to Obtain a  
DrugMisdemeanor: False Representation of Self as Physician, Agent of Physician,  
etc. to Obtain Drug  
4324 Forgery or AlterationFelony or Misdemeanor: Forgery of Prescription; Possession of  
Drugs Obtained Through Forged Prescription  
4325 Producing Prescription Blanks Without AuthorizationMisdemeanor: Manufacture,  
Possession, etc. of False Prescription Blank  
4327 Use of Alcohol or Drugs while on DutyMisdemeanor: Sale, Dispensing, or  
Compounding While Under the Influence of Drugs or Alcoholic Beverages  
4329 Nonpharmacist Taking ChargeMisdemeanor: Non-pharmacist Acting as Manager,  
Compounding, Dispensing or Furnishing Drugs  
4332 Failure or Refusal to Produce or Provide RecordsMisdemeanor: Failure or Refusal  
to Maintain or Produce Required Drug or Device Records; Willful Production of  
False Records  
4335 Failure to Arrange for Transfer of Stock after ClosureVoided License: Knowing  
Failure to Arrange for Disposition of Stock as Misdemeanor  
4336 Use of Minor as Agent to Violate Pharmacy LawFelony: Knowing or Willful Use of  
Minor to Violate Specified Sections of Pharmacy Law: Exception for Pharmacist  
Furnishing Pursuant to a Prescription

## **Article 22. Unfair Trade Practices**

4380 Resale of Preferentially Priced Drugs: Prohibition; Exceptions



## CALIFORNIA CODE OF REGULATIONS, TITLE 16

1707	Waiver Requirements for Off-Site Storage of Records
1718	Current <del>i</del> Inventory <del>d</del> Defined— <del>audit accountability of dangerous drugs</del>
1761(b)	<del>Controlled substance prescription—professional judgment</del> <u>Erroneous or Uncertain Prescriptions</u>
4771 to	
4774	<del>Disciplinary conditions of suspension and probation</del>
1771	<u>Posting of Notice of Suspension</u>
1772	<u>Disciplinary Condition of Suspension</u>
1773	<u>Disciplinary Conditions of Probation of Pharmacist</u>
1774	<u>Disciplinary Conditions of Probation of Permit</u>




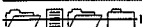
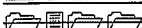
## HEALTH AND SAFETY CODE, TITLE 22

11104	<u>Providing Chemical for Illicit Manufacturing; Evasion of Reporting Requirements; Penalties</u> <del>controlled substances for manufacturing</del>
11105	<u>False s</u> Statement in <del>r</del> Report
41122	<del>Storage of controlled substances</del>
11150	Persons <del>a</del> Authorized to <del>w</del> Write or <del>i</del> ssue a <u>p</u> Prescription
11153	Responsibility for <u>Legitimacy of</u> <del>controlled substance</del> <u>p</u> Prescription; — <del>e</del> Corresponding <del>r</del> Responsibility of a <u>p</u> Pharmacist; <u>Knowing Violation</u>
11153.5	<u>Wholesaler or Manufacturer Furnishing a</u> <del>e</del> Controlled <u>s</u> Substance <del>for e</del> Other <del>t</del> Than <u>for a</u> <del>Legitimate m</del> Medical <u>p</u> Purpose; <u>Knowing Violation; Factors in Assessing</u> <u>Legitimacy</u> — <del>corresponding responsibility of a wholesaler or manufacturer</del>
11157	<u>No False or f</u> Fictitious <u>p</u> Prescriptions— <del>issuing a false or fictitious prescription</del>
11162.5	<u>Counterfeiting or p</u> Possession of <u>e</u> Counterfeit <u>Triplicate p</u> Prescription <u>b</u> Blank; <u>Penalty</u>
11173	<u>Fraud, d</u> Deceit, <del>m</del> Misrepresentation or <del>f</del> False <u>s</u> Statement; <u>False Representation;</u> <u>False Label</u> — <del>obtaining controlled Substances by fraud or deceit</del>
11174	<u>Prohibition on Providing False n</u> Name or <u>a</u> Address <u>in Connection with Prescription,</u> <u>etc.</u> — <del>false name or address on prescription</del>
11351	<u>Possession or p</u> Purchase for <u>s</u> Sale of <u>s</u> Specified <u>e</u> Controlled <u>s</u> Substance— <del>illegal</del> <del>possession for sale of a narcotic</del>
11368	<u>Forged or a</u> Altered <u>p</u> Prescriptions— <del>forging a narcotic prescription</del>
11375	<u>Possession for s</u> Sale or <u>s</u> Selling <u>s</u> Specified <u>s</u> Substance
11378	<u>Possession for s</u> Sale— <del>illegal possession for sale of a nonnarcotic</del>
11550	<u>Useing or b</u> Being <u>u</u> Under the <del>i</del> Influence of <u>e</u> Controlled <u>s</u> Substance
11167.5	<u>Pharmacy Generated Prescription for Schedule II Controlled Substances in a</u> <u>Skilled Nursing Facility</u>
111295	<u>Manufacturing, Selling, or Offering for Sale an Adulterated Drug or Device</u>
111300	<u>Unlawful to Adulterate a Drug</u>
111305	<u>Unlawful to Receive in Commerce an Adulterated Drug</u>
111440	<u>Unlawful Manufacturer, Selling a Misbranded Drug</u>
111445	<u>Unlawful for a Person to Misbrand</u>
111450	<u>Unlawful to Receive into Commerce a Drug that is Misbranded</u>




## CATEGORY IV

Penalty: Revocation

Revocation is recommended for violations of the Uniform Controlled Substance Act (Heath and Safety Code 11000 et seq.) when involving:

-  possession for sale
-  transportation
-  importation
-  sale
-  use of a minor for the unlawful sale of controlled substances

Revocation is also recommended when:

-  a respondent fails to file a notice of defense or to appear at a disciplinary hearing where the board has requested revocation in the accusation
-  a respondent violates the terms and conditions of probation from a previous disciplinary order
-  prior discipline has been imposed, as progressive discipline unless the respondent can demonstrate satisfactory evidence of rehabilitation.

Violations of the following codes are as follows representative of this category:

### HEALTH AND SAFETY CODE, TITLE 22

- 11352 Importing, ~~s~~Selling, ~~f~~Furnishing ~~e~~Controlled ~~s~~Substance—~~illegal sale of a narcotic~~
- 11353 Adult ~~i~~Inducing ~~m~~Minor to ~~v~~Violate ~~c~~Controlled substances ~~p~~Provisions
- 11379 Transporting, ~~i~~Importing, ~~s~~Selling ~~e~~Controlled ~~s~~Substances—~~illegal sale of a non-narcotic~~
- 11380 Adult ~~u~~Using, ~~s~~Soliciting or ~~i~~Intimidating ~~m~~Minor for ~~v~~Violation—~~violation of non-narcotic provisions or the use of a minor~~

## MODEL DISCIPLINARY LANGUAGE – PHARMACIST/INTERN PHARMACIST

The following standardized language shall be used in every decision where the order or condition is imposed.

### Revocation—Single Cause

License number \_\_\_\_\_, issued to respondent \_\_\_\_\_, is revoked.

Respondent shall relinquish his or her wall license and pocket renewal license to the board within 10 days of the effective date of this decision. Respondent may not reapply or petition the board for reinstatement of his or her revoked license for three years from the effective date of this decision.

Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$ \_\_\_\_\_ within fifteen (15) days of the effective date of this decision.

**Option:** ~~Upon~~ As a condition precedent to reinstatement of his or her revoked license, respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$ \_\_\_\_\_. Said amount shall be paid in full prior to the reapplication or reinstatement of his or her license unless otherwise ordered by the board. If respondent fails to pay the amount specified, his or her license shall remain revoked.

### Revocation—Multiple Causes

License number \_\_\_\_\_, issue to respondent \_\_\_\_\_ is revoked pursuant to Determination of Issues \_\_\_\_\_, separately and together.

~~Respondent shall relinquish his or her wall license and pocket renewal license to the board within 10 days of the effective date of this decision. Respondent may not petition the board for reinstatement of his or her revoked license for three years from the effective date of this decision. Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$ \_\_\_\_\_ within 15 days of the effective date of this decision.~~

**Option:** ~~Upon~~ reinstatement of his or her revoked license, respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$ \_\_\_\_\_. Said amount shall be paid in full prior to the reinstatement of his or her license. If respondent fails to pay the amount specified, his or her license shall remain revoked.

## **Suspension—Single Cause**

License number \_\_\_\_\_, issued to respondent \_\_\_\_\_ is suspended for a period of \_\_\_\_\_. As part of probation, respondent is suspended from the practice of pharmacy for \_\_\_\_\_ beginning the effective date of this decision.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.

Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

## **Suspension—Multiple Causes**

License number \_\_\_\_\_, issued to respondent is suspended for a period of \_\_\_\_\_ pursuant to ~~Determination of Issues~~ \_\_\_\_\_, separately and together. All suspensions shall run concurrently.

Respondent is suspended from the practice of pharmacy for \_\_\_\_\_ beginning the effective date of this decision.

## Standard Stay/Probation Order

License number \_\_\_\_\_, issued to respondent is revoked \_\_\_\_\_; however, the revocation \_\_\_\_\_ is stayed and respondent is placed on probation for \_\_\_\_\_ years upon the following terms and conditions:

### Issuance of Probationary License (In cases where a Statement of Issues has been filed.)

~~The application for licensure of respondent is hereby granted, on the following terms and conditions:~~

- ~~1. That, respondent first meet all statutory and regulatory requirements for the issuance of a license to \_\_\_\_\_.~~
- ~~2. That, following the satisfaction of #1, respondent's license be issued and immediately revoked, the order of revocation being stayed and respondent placed on probation for a period of \_\_\_\_\_ years on the following terms and conditions:~~

Upon satisfaction of all statutory and regulatory requirements for issuance of a license, a license shall be issued to respondent and immediately revoked; the order of revocation is stayed and respondent is placed on probation for \_\_\_\_\_ years upon the following terms and conditions:

### Surrender

Respondent surrenders license number \_\_\_\_\_ as of the effective date of this decision. Respondent shall relinquish his or her wall license and pocket renewal license to the board within ten (10) days of the effective date of this decision.

The surrender of respondent's license and the acceptance of the surrendered license by the board shall constitute the imposition of discipline against respondent. This decision constitutes a record of discipline and shall become a part of respondent's license history with the board.

Respondent understands and agrees that if he or she ever files an application for licensure or a petition for reinstatement in the State of California, the board shall treat it as a new application for licensure.

Respondent may not reapply for any license, permit, or registration from the board for three years from the effective date of this decision. Respondent stipulates that should he or she apply for any license from the board on or after the effective date of this decision, all allegations set forth in the [accusation or petition to revoke probation] shall be deemed to be true, correct and admitted by respondent when the board determines whether to grant or deny the application. Respondent shall satisfy all requirements applicable to that license as of the date the application is submitted to the board, including, but not limited to taking and passing the California Pharmacist Licensure Examination prior to the issuance of a new license.

Respondent is ~~obligated~~ required to report this surrender as disciplinary action.

Respondent further stipulates that he or she shall reimburse the board for its costs of investigation and prosecution in the amount of \$ \_\_\_\_\_ within \_\_\_\_\_ days of the effective date of this decision.

**Option:** Respondent stipulates that should he or she apply for any license from the board on or after the effective date of this decision the investigation and prosecution costs in the amount of \$ \_\_\_\_\_ shall be paid to the board prior to issuance of the new license.

## Public Reprimand

It is hereby ordered that a public reprimand be issued against licensee, \_\_\_\_\_.  
Respondent is required to report this reprimand as a disciplinary action.

## Adoption of Stipulation

It is understood by respondent that, in deciding whether to adopt this stipulation, the board may receive oral and written communication from its staff and the Attorney General's Office of the Attorney General. Communications pursuant to this paragraph shall not disqualify the board or other persons from future participation in this or any other matter affecting respondent. In the event this settlement is not adopted by the board, the stipulation will not become effective and may not be used for any purpose, except this paragraph, which shall remain in effect.

## STANDARD CONDITIONS - To be included in all probation decisions/orders.

Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page \_\_\_\_\_.)

1. Obey ~~a~~All Laws
2. Reporting to the Board
3. Interview with the Board
4. Cooperatione with Board Staff
5. Continuing Education
6. Notice to Employers
7. No Preceptorships, Supervision of Interns, ~~Being~~Serving as Pharmacist-In-Charge (PIC), or Serving as a Consultant
8. Reimbursement of Board Costs
9. Probation Monitoring Costs
10. Status of License
11. License Surrender While on Probation/Suspension
12. Notification of a Change in Name, Residence Address, Employment/Mailing Address or Employment Change
13. Tolling of Probation
14. Violation of Probation
15. Completion of Probation

## OPTIONAL CONDITIONS

Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page \_\_\_\_\_.)

1. ~~Actual Suspension~~
2. ~~16.~~ Restricted Practice
3. ~~17.~~ Pharmacist Examination
4. ~~18.~~ Mental Health Examination
5. ~~19.~~ Psychotherapy
6. ~~20.~~ Medical Evaluation
7. ~~21.~~ Rehabilitation Program Pharmacists Recovery Program (PRP)
8. ~~22.~~ Random Drug Screening
9. ~~23.~~ Abstain from Drugs and Alcohol Use
24. Prescription Coordination and Monitoring of Prescription Use
10. ~~25.~~ Community Service Program
11. ~~26.~~ Restitution
12. ~~27.~~ Remedial Education
28. Pharmacy Self-Assessment Mechanism (PSAM)
13. ~~29.~~ Pharmacy-Intern Pharmacist Experience
14. ~~30.~~ Supervised Practice
15. ~~31.~~ No Supervision of Ancillary Personnel
16. ~~32.~~ No Ownership of Licensed Premises
17. ~~33.~~ Separate File of Records
18. ~~34.~~ Report of Controlled Substances
19. ~~35.~~ No Access to Controlled Substances
20. ~~36.~~ Criminal Probation/Parole Reports

21.37. Consultant for Owner or Pharmacist-In-Charge  
22.38. Tolling of Suspension  
39. Surrender of DEA Permit  
40. Ethics Course



## STANDARD CONDITIONS: TO BE INCLUDED IN ALL PROBATIONS

### **1.1. Obey All Laws**

Respondent shall obey all state and federal laws and regulations ~~substantially related to or governing the practice of pharmacy.~~

Respondent shall report any of the following occurrences to the board, in writing, within seventy-two (72) hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state and or federal agency which involves respondent's \_\_\_\_\_ license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, ~~or distribution~~ distributing, ~~or billing~~, or charging for ~~of any drug, device or controlled substance.~~

Failure to timely report such occurrence shall be considered a violation of probation.

### **2.2. Reporting to the Board**

Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, Respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended automatically-until such time as the final report is made and accepted by the board.

### **3.3. Interview with the Board**

Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the board or its designee, at such upon request at various intervals and at a locations as are to be determined by the board or its designee. Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear for two (2) or more scheduled interviews with the board or its designee during the period of probation, shall be considered a violation of probation.

### **4.4. Cooperation with Board Staff**

Respondent shall cooperate with the board's inspectional program and in with the board's monitoring and investigation of respondent's compliance with the terms and conditions of his or her probation. Failure to comply-cooperate shall be considered a violation of probation.

### **5.5. Continuing Education**

\_\_\_\_ Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the board or its designee.

## 6. Notice to Employers

During the period of probation, Respondent shall notify all present and prospective employers of the decision in case number \_\_\_\_\_ and the terms, conditions and restrictions imposed on respondent by the decision, as follows:-

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause his or her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and/or owner to report to the board in writing acknowledging that the listed individual(s) has/have employer has read the decision in case number \_\_\_\_\_, and terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify the his or her direct supervisor, pharmacist-in-charge, and/or owner at every pharmacy entity licensed by the board of the and terms and conditions of the decision in case number \_\_\_\_\_ in advance of the respondent commencing work at each pharmacy licensed entity. A record of this notification must be provided to the board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment by or through a pharmacy employment service, respondent shall cause his or her direct supervisor with the pharmacy employment service to report to the board in writing acknowledging that he or she has read the decision in case number \_\_\_\_\_ and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgments to the board shall be considered a violation of probation.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary, relief or pharmacy management service as a pharmacist or any position for which a pharmacist license is a requirement or criterion for employment, whether the respondent is considered an employee, or independent contractor or volunteer.

## **7.7. No Preceptorships, Supervision of Interns, Being Serving as Pharmacist-in-Charge (PIC), Serving as Designated Representative-in-Charge, or Serving as a Consultant**

During the period of probation, Respondent shall not supervise any intern pharmacist, or perform any of the duties of a preceptor, nor shall respondent be the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board nor serve as a consultant unless otherwise specified in this order. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

## **8.8. Reimbursement of Board Costs**

As a condition precedent to successful completion of probation, Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$\_\_\_\_\_. Respondent shall make said payments as follows: \_\_\_\_\_.

There shall be no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by respondent shall not relieve respondent of his or her responsibility to reimburse the board its costs of investigation and prosecution.

~~Option: If respondent fails to make any payment by the directed deadline(s), the stay shall terminate and the license shall be revoked without further notice or opportunity to be heard.~~

## **9.9. Probation Monitoring Costs**

Respondent shall pay the any costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board ~~at the end of each year of probation on a schedule as directed by the board or its designee.~~ Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

## **10.10. Status of License**

Respondent shall, at all times while on probation, maintain an active, current license with the board, including any period during which suspension or probation is tolled. Failure to maintain an active, current license shall be considered a violation of probation.

If respondent's license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication, respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

## **11. License Surrender ~~w~~While on Probation/Suspension**

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her license to the board for surrender. The board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the board.

Upon acceptance of the surrender, respondent shall relinquish his or her pocket and wall license to the board within ten (10) days of notification by the board that the surrender is accepted. Respondent may not reapply for any license from the board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board, including any outstanding costs.

**411612. Notification of a Change in Name, Residence Address,  
Employment/Mailing Address or Employment Change**

Respondent shall notify the board in writing within ten (10) days of any change of employment. Said notification shall include the reasons for leaving, and/or the address of the new employer, the name of the supervisor or and owner, and the work schedule if known. Respondent shall further notify the board in writing within ten (10) days of a change in name, residence address, mailing address, or phone number.

Failure to timely notify the board of any change in employer(s), name(s), address(es), or phone number(s) shall be considered a violation of probation.

**43.13. Tolling of Probation**

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacist in California for a minimum of \_\_\_\_\_ hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation.

Should respondent, regardless of residency, for any reason (including vacation) cease practicing ~~pharmacy as a pharmacist~~ for a minimum of \_\_\_\_\_ hours per calendar month in California, respondent must notify the board in writing within ten (10) days of the cessation of the practice of pharmacy or, and must further notify the board in writing within ten (10) days of the resumption of the practice of pharmacy. ~~Such periods of time shall not apply to the reduction of the probation period.~~ Any failure to provide such notification(s) shall be considered a violation of probation.

It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding three years thirty-six (36) months.

"Cessation of practice" means any period of time exceeding 30 days calendar month in during which respondent is not practicing as a pharmacist for at least \_\_\_\_\_ hours, as defined by Business and Professions Code section 4000 et seq engaged in the practice of pharmacy as defined in Section 4052 of the Business and Professions Code. "Resumption of practice" means any calendar month during which respondent is practicing as a pharmacist for at least \_\_\_\_\_ hours as a pharmacist as defined by Business and Professions Code section 4000 et seq.

**Option:** Respondent is required to practice as a pharmacist in a licensed pharmacy setting that dispenses medication for a minimum of one year prior to the completion of probation. After the first year of probation, the board or its designee may consider a modification of this requirement. If respondent fails to comply with this requirement or a subsequent modification thereto, such failure shall be considered a violation of probation.

~~\_\_\_\_\_ **Option:** Respondent shall work at least 40 hours in each calendar month as a pharmacist and at least an average of 80 hours per month in any six consecutive months. Failure to do so will be a violation of probation. If respondent has not complied with this~~

condition during the probationary term, and respondent has presented sufficient documentation of his or her good faith efforts to comply with this condition, and if no other conditions have been violated, the board, in its discretion, may grant an extension of respondent's probation period up to one year without further hearing in order to comply with this condition.

#### **14.14. Violation of Probation**

If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended, until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.

If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which that was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction and the period of probation shall be automatically extended, until the petition to revoke probation or accusation is heard and decided.

~~\_\_\_\_\_ If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.~~

#### **14.15. Completion of Probation**

Upon written notice by the board or its designee indicating successful completion of probation, respondent's license will be fully restored.

### **OPTIONAL CONDITIONS OF PROBATION**

#### **1. Actual Suspension**

~~\_\_\_\_\_ As part of probation, respondent is suspended from the practice of pharmacy for \_\_\_\_\_ beginning the effective date of this decision.~~

~~\_\_\_\_\_ During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.~~

~~\_\_\_\_\_ Respondent shall not engage in any activity that requires the professional~~

judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. ~~Respondent shall not perform the duties of a pharmacy technician or an exemptee for any entity licensed by the board.~~ Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

**2.16. Restricted Practice** (Where this condition is imposed, optional condition #7 should also be imposed)

Respondent's practice of pharmacy shall be restricted to [specify setting or type of practice] for the first \_\_\_\_\_ years of probation. Respondent shall submit proof satisfactory to the board of compliance with this term of probation.

**Option:** Respondent shall not prepare, oversee or participate in the preparation of injectable sterile products during the first \_\_\_\_\_ year(s) of probation. Respondent shall submit proof satisfactory to the board of compliance with this term of probation. Failure to abide by this restriction or to timely submit proof to the board of compliance therewith shall be considered a violation of probation.

**3.17. Pharmacist Examination**

Respondent shall take and pass the \_\_\_\_\_ section(s) of the pharmacist licensure examination as scheduled by the Board after the effective date of this decision at respondent's own expense [California Pharmacist Jurisprudence Examination (CPJE) and/or the North American Pharmacist Licensure Examination (NAPLEX)] within six (6) months of the effective date of this decision. If respondent fails to take and pass the examination(s) within six (6) months after the effective of this decision, respondent shall be automatically suspended from practice upon written notice. Respondent shall not resume the practice of pharmacy until he or she takes and passes the same section(s) at a subsequent examination [CPJE and/or NAPLEX] and is notified, in writing, that he or she has passed the examination(s) and may resume practice. Respondent shall bear all costs of the examination(s) required by the board.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, ~~or~~ or be a consultant to any licensee of the Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Respondent shall not resume practice until notified by the board.

During suspension, Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or ~~an exemptee~~ a designated representative for any entity licensed by the board.

Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy licensed premises in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.  
Failure to comply with this suspension shall be considered a violation of probation.

If respondent fails to take and pass the [CPJE and/or NAPLEX] after four attempts, respondent shall successfully complete, at a minimum, sixteen (16) additional semester units of pharmacy education as approved by the board. Failure to complete coursework as required shall be considered a violation of probation. Failure to take and pass the examination(s) within one (1) year of the effective date of this decision shall be considered a violation of probation. ~~Suspension and probation shall be extended until respondent passes the examination and is notified in writing.~~

**4.18. Mental Health Examination** (Appropriate for those cases where evidence demonstrates that mental illness or disability was a contributing cause of the violations.)

Within thirty (30) days of the effective date of this decision, and on a periodic basis as may be required by the board or its designee, respondent shall undergo, at his or her own expense, psychiatric evaluation(s) by a board-appointed or board-approved ~~psychiatrist or psychologist~~ licensed mental health practitioner. The approved evaluator shall be provided with a copy of the board's [accusation or petition to revoke probation] and decision. Respondent shall sign a release authorizing the evaluator to furnish the board with a current diagnosis and a written report regarding the respondent's judgment and ability to function independently as a pharmacist with safety to the public. Respondent shall comply with all the recommendations of the evaluator if directed by the board or its designee.

~~If the psychiatrist or psychotherapist evaluator recommends, and the board or its designee directs, respondent shall undergo psychotherapy. Respondent shall, within 30 days of written notice of the need for psychotherapy, submit to the board for its prior approval, the recommended program for ongoing psychotherapeutic care. Respondent shall undergo and continue psychotherapy, at respondent's own expense, until further notice from the board. Respondent shall have the treating psychotherapist or psychiatrist submit written quarterly reports to the board as directed. Within thirty (30) days of notification by the board that a recommendation for psychotherapy has been accepted, respondent shall submit to the board or its designee, for prior approval, the name and qualification of a licensed mental health practitioner of respondent's choice. Within thirty (30) days of approval thereof by the board, respondent shall submit documentation to the board demonstrating the commencement of psychotherapy with the approved licensed mental health practitioner. Should respondent, for any reason, cease treatment with the approved licensed mental health practitioner, respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment therewith, submit the name of a replacement licensed mental health practitioner of respondent's choice to the board for its prior approval. Within thirty (30) days of approval thereof, respondent shall submit documentation to the board demonstrating the commencement of psychotherapy with the approved replacement. Failure to comply with any requirement or deadline stated by this paragraph shall be considered a violation of probation.~~

Upon approval of the initial or any subsequent licensed mental health practitioner, respondent shall undergo and continue treatment with that therapist, at respondent's own expense, until the therapist recommends in writing to the board, and the board or its designee agrees by way of a written notification to respondent, that no further psychotherapy is necessary. Upon receipt of such recommendation from the treating therapist, and before determining whether to accept or reject said recommendation, the board or its designee may require respondent to undergo, at respondent's expense, a mental health evaluation by a separate board-appointed or board-approved evaluator. If the approved evaluator recommends that respondent continue psychotherapy, the board or its designee may require respondent to continue psychotherapy.

Psychotherapy shall be at least once a week unless otherwise approved by the board. Respondent shall provide the therapist with a copy of the board's [accusation or petition to revoke probation] and decision no later than the first therapy session. Respondent shall take all necessary steps to ensure that the treating therapist submits written quarterly reports to the board concerning respondent's fitness to practice, progress in treatment, and other such information as may be required by the board or its designee.

If at any time the approved evaluator or therapist determines that respondent is determined to be unable to practice safely or independently as a pharmacist, the licensed mental health practitioner shall notify the board immediately by telephone and follow up by written letter within three (3) working days. Upon notification from the board or its designee of this determination, upon notification, respondent shall immediately cease practice be automatically suspended and shall not resume practice until notified by the board that practice may be resumed.

**Option:** Commencing on the effective date of this decision, respondent shall not engage in the practice of pharmacy until notified in writing by the board that respondent ~~is~~ has been deemed psychologically fit to practice pharmacy safely, and the board or its designee approves said recommendation.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, ~~or~~ or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Respondent shall not resume practice until notified by the board.

During suspension, Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee-a designated representative for any entity licensed by the board.

Subject to the above restrictions, respondent may continue to own or hold an interest in any ~~pharmacy-licensed premises~~ in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

*(Option language to be used in addition to standard language)*

**Option:** If recommended by the evaluating psychiatrist or psychotherapist-licensed mental health practitioner and approved by the board, respondent shall be suspended from practicing pharmacy until ~~the respondent's treating psychotherapist~~ recommends, in writing, stating the basis therefor, that respondent can safely practice pharmacy, and the board or its designee approves said recommendation.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or



controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, ~~or~~ or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Respondent shall not resume practice until notified by the board.

During suspension, Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee-a designated representative for any entity licensed by the board.

Subject to the above restrictions, respondent may continue to own or hold an interest in any ~~pharmacy-licensed premises~~ in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

**5.19. Psychotherapy** (Appropriate for those cases where the evidence demonstrates mental illness or alcohol or drug abuse was involved in the violations.)

Within thirty (30) days of the effective date of this decision, respondent shall submit to the board ~~or its designee, for its prior approval, the name and qualifications of a licensed mental health practitioner of respondent's choice.~~ Within thirty (30) days of approval thereof, respondent shall submit documentation to the board demonstrating the commencement of psychotherapy with the approved licensed mental health practitioner. Should respondent, for any reason, cease treatment with the approved licensed mental health practitioner, respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement psychotherapist or licensed mental health practitioner of respondent's choice to the board for its prior approval. Within thirty (30) days of approval thereof, respondent shall submit documentation to the board demonstrating the commencement of psychotherapy with the approved replacement. Failure to comply with any requirement or deadline stated by this paragraph shall be considered a violation of probation.

Upon approval of the initial or any subsequent licensed mental health practitioner, respondent shall undergo and continue treatment with that therapist, at respondent's own expense, until the therapist recommends in writing to the board, and the board or its designee agrees by way of a written notification to respondent, that no further psychotherapy is necessary. Upon receipt of such recommendation from the treating therapist, and before determining whether to accept or reject said recommendation, the board or its designee may require respondent to undergo, at respondent's own expense, a mental health evaluation by a board-appointed or board-approved psychiatrist or psychologist. If the approved evaluator recommends that respondent continue psychotherapy, the board or its designee may require respondent to continue psychotherapy.

~~Therapy~~ Psychotherapy shall be at least once a week unless otherwise ~~determined~~ approved by the board. Respondent shall provide the therapist with a copy of the board's accusation and decision no later than the first therapy session. Respondent shall take all necessary steps to ensure that the treating therapist submits written quarterly reports to the board concerning respondent's fitness to practice, progress in treatment, and ~~to provide such other information as~~ may be required by the board or its designee.

If at any time the treating therapist finds-determines that respondent cannot practice safely or independently, the therapist shall notify the board immediately by telephone and followed up by written letter within three (3) working days. Upon notification from the board or its designee of this determination, respondent shall be automatically suspended and shall not resume practice until notified by the board that practice may be resumed.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Respondent shall not resume practice until notified by the board.

During suspension, respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.

Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.  
~~Upon approval of the licensed mental health practitioner, respondent shall undergo and continue treatment with that therapist and at respondent's own expense, until the board deems that no further psychotherapy is necessary. The board may require respondent to undergo a mental health evaluation(s) by a board-appointed or board-approved licensed mental health practitioner.~~

**6.20. Medical Evaluation** (Appropriate for those cases where the evidence demonstrates that the respondent has had a physical problem/disability which was a contributing cause of the violations and which may affect the respondent's ability to practice.)

Within thirty (30) days of the effective date of this decision, and on a periodic basis thereafter as may be required by the board or its designee, respondent shall undergo a medical evaluation, at respondent's own expense, by a board-appointed or board-approved physician who shall furnish a medical report to the board. The approved physician shall be provided with a copy of the board's [accusation or petition to revoke probation] and decision. A record of this notification must be provided to the board upon request. Respondent shall sign a release authorizing the physician to furnish the board with a current diagnosis and a written report regarding the respondent's ability to function independently as a pharmacist with safety to the public. Respondent shall comply with all the recommendations of the physician if directed by the board or its designee.

If respondent is required by the board the physician recommends, and the board or its designee directs, that respondent to undergo medical treatment, respondent shall, within thirty (30) days of written notice from the board, submit to the board or its designee, for prior approval, the name and qualifications of a licensed physician of respondent's choice. for its prior approval,

~~the name and qualifications of a physician of respondent's choice. Upon board approval of the treating physician, respondent shall undergo and continue medical treatment, with that physician and at respondent's own expense, until further notice from the board. Respondent shall have the treating physician submit written quarterly reports to the board. Should respondent, for any reason, cease treatment with the approved physician, respondent shall notify the board immediately and, within 30 days of ceasing treatment, submit the name of a replacement physician of respondent's choice to the board for its prior approval. Within thirty (30) days of approval thereof, respondent shall submit documentation to the board demonstrating the commencement of treatment with the approved physician. Should respondent, for any reason, cease treatment with the approved physician, respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement physician of respondent's choice to the board or its designee for prior approval. Within thirty (30) days of approval thereof, respondent shall submit documentation to the board demonstrating the commencement of treatment with the approved replacement. Failure to comply with any deadline stated by this paragraph shall be considered a violation of probation.~~

Upon approval of the initial or any subsequent physician, respondent shall undergo and continue treatment with that physician, at respondent's own expense, until the treating physician recommends in writing to the board, and the board or its designee agrees by way of a written notification to respondent, that no further treatment is necessary. Upon receipt of such recommendation from the treating physician, and before determining whether to accept or reject said recommendation, the board or its designee may require respondent to undergo, at respondent's own expense, a medical evaluation by a separate board-appointed or board-approved physician. If the approved evaluating physician recommends that respondent continue treatment, the board or its designee may require respondent to continue treatment.

Respondent shall take all necessary steps to ensure that any treating physician submits written quarterly reports to the board concerning respondent's fitness to practice, progress in treatment, and other such information as may be required by the board or its designee.

If at any time an approved evaluating physician or respondent's approved treating physician determines that respondent is unable to practice safely or independently as a pharmacist, the evaluating or treating physician shall notify the board immediately by telephone and follow up by written letter within three (3) working days. Upon notification from the board or its designee of this determination, respondent shall be automatically suspended and shall not resume practice until notified by the board that practice may be resumed.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Respondent shall not resume practice until notified by the board.

During suspension, respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated

representative for any entity licensed by the board.

Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

*(Option language to be used in addition to standard language)*

**Option:** ~~Upon Commencing on~~ the effective date of this decision, respondent shall not engage in the practice of pharmacy until notified in writing by the board ~~of its determination that respondent has been deemed~~ is medically fit to practice safely and independently, and the board or its designee approves said recommendation.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, ~~or or~~ be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs or controlled substances. Respondent shall not resume practice until notified by the board.

During suspension, Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee designated representative for any entity licensed by the board.

Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy licensed premises in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

*(Option language to be used in addition to standard language)*

**Option:** If recommended by the evaluating physician and approved by the board, respondent shall be suspended from practicing pharmacy until the treating physician recommends, in writing, stating the basis therefor, that respondent can safely and independently resume the practice of a pharmacist, and the board or its designee approves said recommendation. Respondent shall not resume practice until notified by the board that practice may be resumed.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, ~~or or~~ be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Respondent shall not resume practice until

notified by the board.

During suspension, Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee designated representative for any entity licensed by the board.

Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy licensed premises in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

**7.21. Rehabilitation Program--Pharmacists Recovery Program (PRP)** (Appropriate for chemical dependency (alcohol, drugs), or psychiatric disorders (mental illness, emotional disturbance, gambling))

Within thirty (30) days of the effective date of this decision, respondent shall contact the Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll, successfully participate in, and complete the treatment contract and any subsequent addendums as recommended and provided by the PRP and as approved by the board or its designee. The costs for PRP participation shall be borne by the respondent.

If respondent is currently enrolled in the PRP, said participation is now mandatory and as of the effective date of this decision is no longer considered a self-referral under Business and Professions Code section 43634362(c)(2), as of the effective date of this decision. Respondent shall successfully participate in and complete his or her current contract and any subsequent addendums with the PRP.

Failure to timely contact or enroll in the PRP, or successfully participate in and complete the treatment contract and/or any addendums, shall be considered a violation of probation.

Probation shall be automatically extended until respondent successfully completes his or her treatment contract the PRP. Any person terminated from the PRP program shall be automatically suspended upon notice by the board. Respondent may not resume the practice of pharmacy until notified by the board in writing.

Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall result in the automatic suspension of practice by respondent and shall be considered a violation of probation. Respondent may not resume the practice of pharmacy until notified by the board in writing.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Respondent shall not resume practice until notified by the board.

During suspension, respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.

Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not timely paid to the PRP shall constitute a violation for probation. The board will collect unpaid administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

(Option language to be used in addition to standard language)

**Option:** Respondent shall work in a pharmacy setting with access to controlled substances for six (6) consecutive months before successfully completing probation. If respondent fails to do so, probation shall be automatically extended until this condition has been met. Failure to satisfy this condition within six (6) months beyond the original date of expiration of the term of probation shall be considered a violation of probation.

~~\_\_\_\_\_The board shall retain jurisdiction to institute action to terminate probation for any violation of this term.~~

**8-22. Random Drug Screening** (If PRP provision is required, this term is also to be included to allow for continued fluid monitoring by the Board in cases where a respondent successfully completes the PRP before completion of the probation period; terms is also appropriate for those cases where the evidence demonstrates that the respondent may have a problem with chemical dependency (drugs, alcohol) but where the PRP is not required.)

Respondent, at his or her own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or ~~a other~~ drug screening program ~~approved as directed by the board or its designee~~. ~~The length of time shall be for the Respondent may be required to participate in testing for the entire probation period and the frequency of testing will be determined by the board or its designee~~. At all times, respondent shall fully cooperate with the board or its designee, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its designee may direct. Failure to timely submit to testing as directed shall constitute be considered a violation of probation. Upon request of the board or its designee, respondent shall provide documentation from a licensed practitioner that the prescription for a detected drug was legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation. Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall be considered a violation of probation and drug test shall result in the immediate automatic suspension of practice of pharmacy by respondent. Respondent may not resume the practice of pharmacy until notified by the board in writing.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Respondent shall not resume practice until notified by the board.

During suspension, respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.

Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

### **9-23. Abstain from Drugs and Alcohol Use**

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the board or its designee, respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of

the treatment of the respondent. Respondent shall ensure that he or she is not in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs. Failure to timely provide such documentation shall be considered a violation of probation. Respondent shall ensure that he or she is not in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, and/or any physical proximity to persons using illicit substances, shall be considered a violation of probation.

**24. Prescription Coordination and Monitoring of Prescription Use** (Appropriate for chemical dependency (alcohol, drugs), or psychiatric disorders (mental illness, emotional disturbance, gambling))

Within thirty (30) days of the effective date of this decision, respondent shall submit to the board, for its prior approval, the name and qualifications of a single physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's history [with the use of alcohol, controlled substances, and/or dangerous drugs, and/or of mental illness, and/or of gambling addiction] and who will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The approved practitioner shall be provided with a copy of the board's [accusation or petition to revoke probation] and decision. A record of this notification must be provided to the board upon request. Respondent shall sign a release authorizing the practitioner to communicate with the board about respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall report to the board on a quarterly basis for the duration of probation regarding respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances. The board may require that the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine. Should respondent, for any reason, cease supervision by the approved practitioner, respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice to the board or its designee for its prior approval. Failure to timely submit the selected practitioner or replacement practitioner to the board for approval, or to ensure the required reporting thereby on the quarterly reports, shall be considered a violation of probation.

If at any time an approved practitioner determines that respondent is unable to practice safely or independently as a pharmacist, the practitioner shall notify the board immediately by telephone and follow up by written letter within three (3) working days. Upon notification from the board or its designee of this determination, respondent shall be automatically suspended and shall not resume practice until notified by the board that practice may be resumed.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Respondent shall not resume practice until



notified by the board.

During suspension, respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.

Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

#### **40-25. Community Services Program**

Within sixty (60) days of the effective date of this decision, respondent shall submit to the board or its designee, for its prior approval, a community service program in which respondent shall provide free health-care related services on a regular basis to a community or charitable facility or agency for at least \_\_\_\_\_ hours per \_\_\_\_\_ for the first \_\_\_\_\_ of probation. Within thirty (30) days of board approval thereof, respondent shall submit documentation to the board demonstrating commencement of the community service program. A record of this notification must be provided to the board upon request. Respondent shall report on progress with the community service program in the quarterly reports. Failure to timely submit, commence, or comply with the program shall be considered a violation of probation.

#### **44-26. Restitution** ~~(For Pharmacist and Premises)~~— (Appropriate in cases of drug diversion, theft, fraudulent billing, or patient harm resulting from negligence or incompetence.)

Within \_\_\_\_\_ days of the effective date of this decision, respondent shall pay restitution to \_\_\_\_\_ in the amount of \$ \_\_\_\_\_. Failure to make restitution by this deadline shall be considered a violation of probation.

#### **42-27. Remedial Education**

Within [thirty (30), sixty (60), ninety (90)] days of the effective date of this decision, respondent shall submit to the board or its designee, for its prior approval, an appropriate program of remedial education related to [the grounds for discipline]. The program of remedial education shall consist of at least \_\_\_\_\_ hours, which shall be completed within \_\_\_\_\_ months/year at respondent's own expense. The period of probation shall be extended until such remedial education is successfully completed and written proof, in a form acceptable to the board, is provided to the board. All remedial education shall be in addition to, and shall not be credited toward, continuing education (CE) courses used for license renewal purposes.

Failure to timely submit or complete the approved remedial education as set forth hereinabove is grounds for the filing of a petition to revoke probation shall be considered a violation of probation. The period of probation will be automatically extended until such remedial education is successfully completed and written proof, in a form acceptable to the board, is provided to the board or its designee.

Following the completion of each course, the board may administer or its designee may require

the respondent, at his or her own expense, to take an approved an-examination to test the respondent's knowledge of the course. If the respondent does not achieve a passing score on the examination, this failure shall be considered a violation of probation. Any such examination failure shall require respondent to take another course approved by the board in the same subject area.

**Option:** Respondent shall be restricted from the practice of [areas where a serious deficiency has been identified] until the remedial education program has been successfully completed.

## **28. Pharmacy Self-Assessment Mechanism**

Within the first year of probation, respondent shall complete the Pharmacist Self-Assessment Mechanism (PSAM) examination provided by the National Association of Boards of Pharmacy (NABP). Respondent shall submit a record of completion to the board demonstrating he/she has completed this examination. Respondent shall bear all costs for the examination. Continuing education hours received for this examination shall not be used as part of the required continuing education hours for renewal purposes.

Failure to timely complete the PSAM or submit documentation thereof shall be considered a violation of probation.

**Option A:** Respondent shall waive any rights to confidentiality and provide examination results to the board or its designee.

**Option B:** (This term must be accompanied by the "Remedial Education" term. [Include/Modify Remedial Education Term to Conform].) Respondent shall waive any rights to confidentiality and provide examination results to the board or its designee. Based on the results of the examination, the board shall determine which courses are appropriate for remedial education.

## **13.29. Pharmacy Intern Pharmacist Experience** (For Intern Pharmacist)

Within ninety (90) days of the effective date of this decision, respondent shall submit to the board or its designee, for its prior approval, a pharmacy intern training program consisting of \_\_\_\_\_ hours to be served as an intern pharmacist in a community -and/or institutional pharmacy as directed. Respondent shall successfully complete the intern hours within the first year of probation and shall, by no later than one (1) year from the effective date of this decision, submit a "Pharmacy Intern Experience Affidavit" and "Pharmacy Intern Hours Affidavit" signed by a currently licensed pharmacist not on probation with the board proof satisfactory to the board of completion of this experience signed under penalty of perjury by both the respondent and supervising pharmacist. Failure to timely complete or document the required intern experience shall be considered a violation of probation.

## **14.30. Supervised Practice**

During the period of probation, rRespondent shall practice only under the supervision of a licensed pharmacist not on probation with the board. Upon and after the effective date of this decision, rRespondent shall not practice pharmacy and his or her license shall be automatically suspended until the a supervisor is approved by the board or its designee. The supervision shall be, as required by the board or its designee, either:

Continuous — At least 75% to 100% of a work week

Substantial - At least 50% of a work week

Partial - At least 25% of a work week

Daily Review - Supervisor's review of probationer's daily activities within 24 hours

Within thirty (30) days of the effective date of this decision, respondent shall have his or her supervisor submit notification to the board in writing stating that the supervisor has read the decision in case number \_\_\_\_\_ and is familiar with the required level of supervision as determined by the board or its designee. It shall be the respondent's responsibility to ensure that his or her employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely acknowledgements to the board shall be considered a violation of probation.

If respondent changes employment, it shall be the respondent's responsibility to ensure that his or her employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the board. Respondent shall have his or her new supervisor, within fifteen (15) days after employment commences, submit notification to the board in writing stating the direct supervisor and pharmacist-in-charge have read the decision in case number \_\_\_\_\_ and is familiar with the level of supervision as determined by the board. Respondent shall not practice pharmacy and his or her license shall be automatically suspended until the board or its designee approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely acknowledgements to the board shall be considered a violation of probation.

Within ten (10) days of leaving employment, respondent shall notify the board in writing.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Respondent shall not resume practice until notified by the board.

During suspension, respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.

Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

#### **45.31. No Supervision of Ancillary Personnel**

During the period of probation, Respondent shall not supervise any ancillary personnel, including, but not limited to, registered-pharmacy technicians or exemptees designated

representatives, ~~of~~in any entity licensed by the board.

Failure to comply with this provision shall be considered a violation of probation.

#### **16.32. No Ownership of Licensed Premises**

Respondent shall not own, have any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90) days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.

**Option:** Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any additional business, firm, partnership, or corporation licensed by the board. If respondent currently owns or has any legal or beneficial interest in, or serves as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold that interest, but only to the extent of that position or interest as of the effective date of this decision. Violation of this restriction shall be considered a violation of probation.

#### **17.33. Separate File of Records** (For pharmacist owners and pharmacists-in-charge)

Respondent shall maintain and make available for inspection a separate file of all records pertaining to the acquisition or disposition of all controlled substances. Failure to maintain such file or make it available for inspection shall be considered a violation of probation.

#### **18.34. Report of Controlled Substances** (For pharmacist owners and pharmacists-in-charge)

Respondent shall submit quarterly reports to the board detailing the total acquisition and disposition of such controlled substances as the board may direct. Respondent shall specify the manner of disposition (e.g., by prescription, due to burglary, etc.) or acquisition (e.g., from a manufacturer, from another retailer, etc.) of such controlled substances. Respondent shall report on a quarterly basis or as directed by the board. The report shall be delivered or mailed to the board no later than ten (10) days following the end of the reporting period. Failure to timely prepare or submit such reports shall be considered a violation of probation.

#### **19.35. No Access to Controlled Substances**

During the period of probation and as directed by the board or its designee, Respondent shall not order, possess, dispense or otherwise have access to any controlled substance(s) in Schedule II, III, IV or V (Health and Safety Code sections 11055-11058 inclusive). Respondent shall not order, receive or retain any triplicate-security prescription forms. Failure to comply with this restriction shall be considered a violation of probation.

#### **20.36. Criminal Probation/Parole Reports**

Respondent shall provide a copy of the conditions of any criminal probation/parole to the board, in writing, within ten (10) days of the issuance or modification of those conditions. Respondent shall provide the name of his or her probation/parole officer to the board, in writing, within ten (10) days after that officer is designated or a replacement for that officer is designated.

Respondent shall provide a copy of all criminal probation/parole reports to the board within ten (10) days after respondent receives a copy of such a report. Failure to timely make any of the submissions required hereby shall be considered a violation of probation.

#### **21.37. Consultant for Owner or Pharmacist-in-Charge**

**(Option #1 for pharmacist owners - primarily intended for appropriate cases where the respondent is the sole owner and pharmacist-in-charge of his or her own pharmacy, the standard language should be used in most cases.)**

During the period of probation, Respondent shall not supervise any intern pharmacist, perform any of the duties of a preceptor or serve as a consultant to any entity licensed by the board. Respondent may be a pharmacist-in-charge. However, if during the period of probation respondent serves as a pharmacist-in-charge, respondent shall retain an independent consultant at his or her own expense who shall be responsible for reviewing pharmacy operations on a [monthly/quarterly] basis for compliance by respondent with state and federal laws and regulations governing the practice of pharmacy and for compliance by respondent with the obligations of a pharmacist-in-charge. The consultant shall be a pharmacist licensed by and not on probation with the board and whose name shall be submitted to the board or its designee, for its prior approval, within thirty (30) days of the effective date of this decision. Respondent shall not be a pharmacist-in-charge at more than one pharmacy or at any pharmacy of which he or she is not the sole owner. Failure to timely retain, seek approval of, or ensure timely reporting by the consultant shall be considered a violation of probation.

**(Option #2 - appropriate for pharmacists who are not pharmacy owners, but who wish, because of their current employment, to remain as the pharmacist-in-charge, and have provided documentation documented mitigating evidence to warrant this option.)**

During the period of probation, Respondent shall not supervise any intern pharmacist, perform the duties of a preceptor or serve as a consultant to any entity licensed by the board. In the event that the respondent is currently the pharmacist-in-charge of a pharmacy, the pharmacy shall retain an independent consultant at its own expense who shall be responsible for reviewing pharmacy operations on a [monthly/quarterly] basis for compliance by respondent with state and federal laws and regulations governing the practice of pharmacy and for compliance by respondent with the obligations of a pharmacist-in-charge. The consultant shall be a pharmacist licensed by and not on probation with the board and whose name shall be submitted to the board or its designee, for its prior approval, within thirty (30) days of the effective date of this decision. Respondent shall not be a pharmacist-in-charge at more than one pharmacy or at any pharmacy of which he or she is not the current PIC. The board may, in case of an employment change by respondent or for other reasons as deemed appropriate by the board or its designee, preclude the respondent from acting as a pharmacist-in-charge. Failure to timely retain, seek approval of, or ensure timely reporting by the consultant shall be considered a violation of probation.

#### **22.38. Tolling of Suspension**

During the period of suspension, respondent shall not leave California for any period exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess of the (10) days during suspension shall be considered a violation of probation. Moreover, any absence from California during the period of suspension exceeding ten (10) days shall toll the suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days

respondent is absent from California. During any such period of tolling of suspension, respondent must nonetheless comply with all terms and conditions of probation.

Respondent must notify the board in writing within ten (10) days of departure, and must further notify the board in writing within ten (10) days of return. The failure to provide such notification(s) shall constitute a violation of probation. Upon such departure and return, respondent shall not resume the practice of pharmacy until notified by the board that the period of suspension has been satisfactorily completed.

~~\_\_\_\_\_ If respondent leaves California to reside or practice outside this state, for any period exceeding 10 days (including vacation), respondent must notify the board in writing of the dates of departure and return. Periods of residency or practice outside the state—or any absence exceeding a period of 10 days shall not apply to the reduction of the suspension period.~~

~~\_\_\_\_\_ Respondent shall not practice pharmacy upon returning to this state until notified by the board that the period of suspension has been completed.~~

### **39. Surrender of DEA Permit**

Within thirty (30) days of the effective date of this decision, respondent shall surrender his or her federal Drug Enforcement Administration (DEA) permit to the DEA, for cancellation. Respondent shall provide documentary proof of such cancellation to the board or its designee. Respondent is prohibited from prescribing until the board has received satisfactory proof of cancellation. Thereafter, respondent shall not apply/reapply for a DEA registration number without the prior written consent of the board or its designee.

**Option:** Respondent may obtain a DEA permit restricted to Schedule(s) \_\_\_\_\_ controlled substance(s).

**Option:** Respondent shall not order, receive, or retain any federal order forms, including 222 forms, for controlled substances.

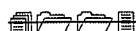
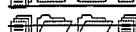
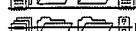
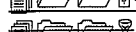
### **40. Ethics Course**

Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll in a course in ethics, at respondent's expense, approved in advance by the board or its designee. Failure to initiate the course during the first year of probation, and complete it within the second year of probation, is a violation of probation.

Respondent shall submit a certificate of completion to the board or its designee within five days after completing the course.

## PHARMACY TECHNICIAN

The board files cases against pharmacy technicians where the violation(s) involve significant misconduct on the part of the licensee. The board believes that revocation is typically the appropriate penalty when grounds for discipline are found to exist. Grounds for discipline include, but are not limited to the following violation(s) of law(s) involving:

-  Possession of dangerous drugs and/or controlled substances
-  Use of dangerous drugs and/or controlled substances
-  Possession for sale of dangerous drugs and/or controlled substances
-  Personal misuse of drugs or alcohol

If revocation is not imposed, the board recommends a minimum of a Category III level of discipline be imposed on the pharmacy technician. This would include suspension and probation.

In addition, a pharmacy technician would be required to obtain certification from the ~~Pharmacy Technician Certification Board (PTCB)~~ as defined by Business and Professions Code section 4202(a)(4) prior to resuming work as a pharmacy technician. The board believes that certification prior to resuming work is always warranted in cases where a pharmacy technician registration license is disciplined but not revoked.

Pharmacy technicians are issued a registration license based on minimal education, ~~or training requirements or certification~~. No examination is required for issuance of the registration. Pharmacy technicians are not independent practitioners and must work under the supervision of a pharmacist. To place a pharmacy technician on probation places an additional burden on the pharmacist (who may or may not be on probation) to ensure that the respondent pharmacy technician complies with the terms and conditions of his or her probation.

## TERMS OF PROBATION – PHARMACY TECHNICIAN

A minimum three-year probation period has been established by the board as appropriate in most cases where probation is imposed. A minimum five-year probation period has been established by the board as appropriate where self-administration or diversion of controlled substances is involved. Terms and conditions are imposed to provide consumer protection and to allow the probationer to demonstrate rehabilitation. A suspension period may also be required as part of the probation order. The board prefers that any stayed order be for revocation rather than for some period of suspension.

Probation conditions are divided into two categories: (1) standard conditions that shall appear in ~~all~~ all probation cases, and (2) optional conditions that depend on the nature and circumstances of a particular case. These conditions may vary depending on the nature of the offense(s).

The board may also impose any other condition appropriate to the case where the condition is not contrary to public policy.



## CATEGORY OF VIOLATIONS AND RECOMMENDED PENALTIES

### CATEGORY III - Penalty

Minimum: Revocation; Revocation stayed, 90 days actual suspension, three years probation. All standard terms and conditions shall be included and optional terms and conditions as appropriate.

Maximum: Revocation

Applies to all applicable statutes and regulations

### MODEL DISCIPLINARY LANGUAGE – PHARMACY TECHNICIAN

The following standardized language shall be used in every decision where the order of condition is imposed.

#### **Revocation—Single Cause**

Pharmacy Technician registration license number \_\_\_\_\_, issued to respondent \_\_\_\_\_ is revoked. Respondent shall relinquish his or her pocket technician registration license to the board within ten (10) days of the effective date of this decision. Respondent may not reapply or petition the board for reinstatement of his or her revoked technician registration license for three (3) years from the effective date of this decision.

A condition of reinstatement shall be that the respondent is certified as defined in Business and Professions Code section 4202(a)(4) by the Pharmacy Technician Certification Board (PTCB) and provides satisfactory proof of certification to the board.

Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$\_\_\_\_\_ within fifteen (15) days of the effective date of this decision.

**Option:** As a condition precedent to ~~Upon~~ reinstatement of his or her revoked technician registration license respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$\_\_\_\_\_. ~~and~~ Said amount shall be paid in full prior to the reapplication or reinstatement of his or her revoked technician license, unless otherwise ordered by the board of his or her technician registration. ~~If the respondent fails to pay the amount specified, his or her technician registration shall remain revoked.~~

#### **Revocation—Multiple Causes**

Technician registration number \_\_\_\_\_, issued to respondent \_\_\_\_\_ is revoked pursuant to Determination of Issues \_\_\_\_\_, separately and together. Respondent shall relinquish his or her pocket technician registration to the board within 10 days of the effective date of this decision. Respondent may not petition the board for reinstatement of his or her revoked technician registration for three years from the effective date of this decision. A condition of reinstatement shall be that the respondent is certified by the Pharmacy Technician Certification Board (PTCB) and provides satisfactory proof of certification to the board.

~~Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$\_\_\_\_\_ within 15 days of the effective date of this decision.~~

~~**Option:** Upon reinstatement of his or her technician registration respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$\_\_\_\_\_, and said amount shall be paid in full prior to the reinstatement of his or her technician registration. If the respondent fails to pay the amount specified, his or her technician registration shall remain revoked.~~

### **Suspension—Single Cause**

As part of probation, Technician registration number \_\_\_\_\_, issued to respondent \_\_\_\_\_ is suspended from working as a pharmacy technician for for a period of \_\_\_\_\_ beginning the effective date of this decision.

During suspension, respondent shall not enter any pharmacy area or any portion of or any other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, or assist any licensee of the board. Respondent shall not have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

Respondent shall not direct, control or perform any aspect of the practice of pharmacy. Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

### **Suspension—Multiple Causes**

Technician registration number \_\_\_\_\_, issued to respondent is suspended for a period of \_\_\_\_\_ pursuant to Determination of Issues \_\_\_\_\_, separately and together. All suspensions shall run concurrently. Respondent is suspended from the duties of a pharmacy technician for \_\_\_\_\_ beginning the effective date of this decision.

### **Standard Stay/Probation Order**

Pharmacy Technician registration license number \_\_\_\_\_ issued to \_\_\_\_\_ is revoked; however, the revocation is stayed and respondent is placed on probation for \_\_\_\_\_ years upon the following terms and conditions:

#### **Issuance of Probationary License** (In cases where a Statement of Issues has been filed.)

Upon satisfaction of all statutory and regulatory requirements for issuance of a license, a license shall be issued to respondent and immediately revoked; the order of revocation is stayed and respondent is placed on probation for \_\_\_\_\_ years upon the following terms and conditions:

## Surrender

Respondent surrenders pharmacy technician registration license number \_\_\_\_\_ as of the effective date of this decision. Respondent shall relinquish his or her ~~packet pharmacy technician registration license~~ to the board within ten (10) days of the effective date of this decision.

The surrender of respondent's license and the acceptance of the surrendered license by the board shall constitute the imposition of discipline against respondent. This decision constitutes a record of discipline and shall become a part of respondent's license history with the board.

Respondent understands and agrees that if he or she ever files an application for licensure or a petition for reinstatement in the State of California, the board shall treat it as a new application for licensure.

Respondent may not reapply for any license, permit, or technician registration ~~of from~~ the board for three (3) years from the effective date of this decision. Respondent stipulates that should ~~respondent he or she~~ apply for any technician registration license from the board on or after the effective date of this decision, all allegations set forth in the [accusation or petition to revoke probation] shall be deemed to be true, correct and admitted by respondent when the board determines whether to grant or deny the application. Respondent shall satisfy all requirements applicable to that license as of the date the application is submitted to the board, including, but not limited to certification by a nationally recognized body prior to the issuance of a new license. Respondent is required to report this surrender as disciplinary action. ~~Should respondent apply for any new license, respondent will be subject to all terms and conditions not previously satisfied.~~

~~Respondent shall meet all requirements applicable to that technician registration as of the date the application is submitted to the board, including, but not limited to certification by a nationally recognized body prior to the issuance of a new registration.~~

Respondent further stipulates that he or she shall reimburse the board for its costs of investigation and prosecution in the amount of \$ \_\_\_\_\_ within \_\_\_\_\_ days of the effective date of this decision.

**Option:** Respondent stipulates that should he or she apply for any ~~technician registration~~ license from the board on or after the effective date of this decision, ~~that investigation and~~ prosecution costs in the amount of \$\_\_\_\_\_ shall be paid to the board prior to issuance of the ~~technician registration~~ license.

### **Public Reprimand**

It is hereby ordered that a public reprimand be issued against pharmacy technician license,  
\_\_\_\_\_ . Respondent is required to report this reprimand as a disciplinary action.

### **Adoption of Stipulation**

It is understood by respondent that, in deciding whether to adopt this stipulation, the board may receive oral and written communication from its staff and the ~~Attorney General's Office of the~~ Attorney General. Communications pursuant to this paragraph shall not disqualify the board or other persons from future participation in this or any other matter affecting respondent. In the event this settlement is not adopted by the board, the stipulation will not become effective and may not be used for any purpose, except this paragraph, which shall remain in effect.

## STANDARD CONDITIONS – To be included in all probation decisions/orders.

Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page \_\_\_\_\_.)

1. Certification Prior to Resuming Work
2. Obey ~~a~~All Laws
3. Reporting to the Board
4. Interview with the Board
5. Cooperatione with Board Staff
6. Notice to Employers
7. Reimbursement of Board Costs
8. Probation Monitoring Costs
9. Status of License
10. License Surrender While on Probation/Suspension
- ~~10-11.~~ Notification of a Change in Name, Residence Address, Employment/Mailing Address or Employment Change
- ~~11-12.~~ Tolling of Probation
- ~~12-13.~~ Violation of Probation
- ~~13-14.~~ Completion of Probation
- ~~14.~~ License Surrender While on Probation/Suspension

## OPTIONAL CONDITIONS

Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page \_\_\_\_\_.)

- ~~1.~~ Actual Suspension
- ~~2-15.~~ No Ownership of Licensed Premises
- ~~3-16.~~ Attend Substance Abuse Recovery Relapse Prevention and Support Groups
- ~~4-17.~~ Random Drug Screening
- ~~5-18.~~ Work Site Monitor
- ~~6-19.~~ Notification of Departure
- ~~7-20.~~ Abstain from Drugs and Alcohol Use
- ~~8-21.~~ Tolling of Suspension
- ~~22.~~ Restitution

## **STANDARD CONDITIONS: TO BE INCLUDED IN ALL PROBATIONS**

### **4.1. Certification Prior to Resuming Work**

Respondent shall be automatically suspended from working as a pharmacy technician until he or she is certified by the Pharmacy Technician Certification Board (PTCB) ~~as defined by~~ Business and Professions Code section 4202(a)(4) and provides satisfactory proof of certification to the board. Respondent shall not resume working as a pharmacy technician until notified by the board. Failure to achieve certification within one (1) year shall be considered a violation of probation. Respondent shall not resume working as a pharmacy technician until notified by the board.

During suspension, respondent shall not enter any pharmacy area or any portion of any other board the licensed premises of a (wholesaler, veterinary food-animal drug retailer or any other distributor of drugs) which is licensed by the board, or any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, ~~or be a consultant to or~~ assist any licensee of the board. Respondent shall not ~~or have~~ access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances. Respondent shall not resume work until notified by the board.

Subject to the above restrictions, respondent may continue to own or hold an interest in any entity-licensed premises by the board in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

### **2.2. Obey All Laws**

Respondent shall obey all state and federal laws and regulations ~~substantially related to or governing the practice of pharmacy.~~

Respondent shall report any of the following occurrences to the board, in writing, within seventy-two (72) hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report any such occurrence shall be considered a violation of probation.

### **3.3. Reporting to the Board**

Respondent shall report to the board quarterly, on a schedule as directed by the board or its

designee. The report shall be made either in person or in writing, as directed. Among other requirements, Respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended~~automatically~~ until such time as the final report is made and accepted by the board.

#### **4.4. Interview with the Board**

Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the board or its designee, ~~upon request at various such intervals and at a locations as are to be determined by the board or its designee.~~ Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear at two (2) or more scheduled interviews with the board or its designee during the period of probation, shall be considered a violation of probation.

#### **5.5. ~~Cooperati~~one with Board Staff**

Respondent shall cooperate with the board's inspectional program and in with the board's monitoring and investigation of respondent's compliance with the terms and conditions of his or her probation. Failure to ~~comply~~ cooperate shall be considered a violation of probation.

## **6.6. Notice to Employers**

During the period of probation, Respondent shall notify all present and prospective employers of the decision in case number \_\_\_\_\_ and the terms, conditions and restrictions imposed on respondent by the decision, as follows:-

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause his or her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner employer to report to the board in writing acknowledging that the listed individual(s) has/have employer has read the decision in case number \_\_\_\_\_ and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the board.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify the his or her direct supervisor, pharmacist-in-charge and/or owner at every pharmacy of the terms and conditions of the decision in case number \_\_\_\_\_ in advance of the respondent commencing work at each pharmacy. A record of this notification must be provided to the board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment by or through a pharmacy employment service, respondent shall cause his or her direct supervisor with the pharmacy employment service to report to the board in writing acknowledging that he or she has read the decision in case number \_\_\_\_\_ and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgements to the board shall be considered a violation of probation.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary or relief service or pharmacy management service as a pharmacy technician or in any position for which a pharmacy technician license is a requirement or criterion for employment, whether the respondent is considered an employee, or independent contractor or volunteer.

## **7.7. Reimbursement of Board Costs**

As a condition precedent to successful completion of probation, Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$ \_\_\_\_\_. Respondent shall make said payments as follows: \_\_\_\_\_. There shall be no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by respondent shall not relieve respondent of his or her responsibility to reimburse the board its costs of investigation and prosecution.

~~Option: If respondent fails to make any payment by the directed deadline(s), the stay shall~~



~~terminate and the license shall be revoked without further notice or opportunity to be heard.~~

### **8.8. Probation Monitoring Costs**

Respondent shall pay ~~the any~~ costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board ~~at the end of each year of probation~~ on a schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

### **9.9. Status of License**

Respondent shall, at all times while on probation, maintain an active, current pharmacy technician registration/certification license with the board, including any period during which suspension or probation is tolled. Failure to maintain an active, current license shall be considered a violation of probation.

If respondent's pharmacy technician registration/certification license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication, respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

### **10. License Surrender While on Probation/Suspension**

Following the effective date of this decision, should respondent cease work due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her pharmacy technician license to the board for surrender. The board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the board.

Upon acceptance of the surrender, respondent shall relinquish his or her pharmacy technician license to the board within ten (10) days of notification by the board that the surrender is accepted. Respondent may not reapply for any license, permit, or registration from the board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.

### **10.11. Notification of a Change in Name, Residence Address, Employment/Mailing Address or Employment Change**

Respondent shall notify the board in writing within ten (10) days of any change of employment. Said notification shall include the reasons for leaving, ~~and/or~~ the address of the new employer, ~~the name of the supervisor or owner,~~ and the work schedule, if known. Respondent shall further notify the board in writing within ten (10) days of a change in name, residence address and mailing address, or phone number.

Failure to timely notify the board of any change in employer(s), name(s), address(es), or phone number(s) shall be considered a violation of probation.

#### **44.12. Tolling of Probation**

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacy technician in California for a minimum of \_\_\_\_\_ hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation.

It is a violation of probation for respondent to work less than \_\_\_\_\_ hours per month as a pharmacy technician/exemptee. Should respondent, regardless of residency, for any reason (including vacation) cease practicing working as a pharmacy technician or an exemptee for a minimum of \_\_\_\_\_ hours per calendar month in California, respondent must notify the board in writing within ten (10) days of cessation of practice work and must further notify the board in writing within ten (10) days of or the resumption of the practice work. Such periods of time shall not apply to the reduction of the probation period. Any failure to provide such notification(s) shall be considered a violation of probation.

It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding three consecutive years thirty-six (36) months.

"Cessation of practicework" means any period of time exceeding 30 days calendar month during in which respondent is not engaged in the practice of working for at least \_\_\_\_\_ hours as a pharmacy technician, as defined in section \_\_\_\_\_ of the Business and Professions Code section 4115. "Resumption of work" means any calendar month during which respondent is working as a pharmacy technician for at least \_\_\_\_\_ hours as a pharmacy technician as defined by Business and Professions Code section 4115.

#### **42.13. Violation of Probation**

If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended, until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.

\_\_\_\_\_If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which that was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction, and the period of probation shall be automatically extended, until the petition to revoke probation or accusation is heard and decided.

If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and

to impose the penalty which was stayed.

### **13.14. Completion of Probation**

Upon written notice by the board indicating successful completion of probation, respondent's pharmacy technician registration license will be fully restored.

### **14. License Surrender While on Probation/Suspension**

~~Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her license to the board for surrender. The board shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation.~~

~~Upon acceptance of the surrender, respondent shall relinquish his or her pocket license to the board within 10 days of notification by the board that the surrender is accepted. Respondent may not reapply for any license from the board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.~~

## **OPTIONAL CONDITIONS OF PROBATION**

### **4. Actual Suspension**

~~\_\_\_\_\_ As part of probation, respondent is suspended from the duties of a pharmacy technician for \_\_\_\_\_ beginning the effective date of this decision.~~

~~\_\_\_\_\_ During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.~~

~~\_\_\_\_\_ Subject to the above restrictions, respondent may continue to own or hold an interest in any entity licensed by the board in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.~~

~~\_\_\_\_\_ During suspension, respondent shall not perform any of the duties of a pharmacy technician as provided by Section 1793.2 of the California Code of Regulations.~~

### **2.15. No Ownership of Licensed Premises**

Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,

administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90) days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.

**Option:** Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any additional business, firm, partnership, or corporation licensed by the board. If respondent currently owns or has any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold that interest, but only to the extent of that position or interest as of the effective of this decision. Violation of this restriction shall be considered a violation of probation.

**3.16. Attend Substance Abuse Recovery Relapse Prevention and Support Groups** (Appropriate for those cases with chemical dependency (alcohol, drugs))

Within thirty (30) days of the effective date of this decision, respondent shall begin regular attendance at a ~~board-approved-recognized~~ and established substance abuse recovery support group in California, (e.g., Alcoholics Anonymous, ~~Cocaine-Narcotics Anonymous~~, etc.;) which has been approved by the board or its designee. Respondent must attend at least one group meeting per week unless otherwise directed by the board or its designee. Respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the duration of probation. Failure to attend or submit documentation thereof shall be considered a violation of probation.

**4.17. Random Drug Screening** (Appropriate for those cases with chemical dependency (alcohol, drugs))

Respondent, at his or her own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or ~~a other drug screening program approved as directed by the board or its designee~~. ~~The length of time shall be for the Respondent may be required to participate in testing for the entire probation period and the frequency of testing will be determined by the board or its designee.~~ At all times respondent shall fully cooperate with the board or its designee, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its designee may direct. Failure to timely submit to testing as directed shall ~~constitute be considered~~ a violation of probation. Upon request of the board or its designee, respondent shall provide documentation from a licensed practitioner that the prescription for a detected drug was legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation. Any confirmed positive ~~drug-test~~ for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall be considered a violation of probation and shall result in the immediate-automatic suspension of practice-work by respondent. Respondent may not resume the practice of pharmacy-work as a pharmacy technician until notified by the board in writing.

During suspension, respondent shall not enter any pharmacy area or any portion of or any other board licensed premises (wholesaler, veterinary food-animal drug retailer or any other

distributor of drugs) any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, or assist any licensee of the board. Respondent shall not have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances. Respondent shall not resume work until notified by the board.

Respondent shall not direct, control or perform any aspect of the practice of pharmacy. Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

**5.18. Work Site Monitor** (Appropriate for those cases with chemical dependency (alcohol, drugs))

Within ~~ten~~ (10) days of the effective date of this decision, respondent shall identify a work site monitor, for prior approval by the board, who shall be responsible for supervising respondent during working hours. The Respondent shall be responsible for ensuring that the work site monitor shall report reports in writing to the board quarterly. Should the designated work site monitor determine at any time during the probationary period that respondent has not maintained sobriety, he or she shall notify the board immediately, either orally or in writing as directed. Should respondent change employment, a new work site monitor must be designated, for prior approval by the board, within ~~ten~~ (10) days of commencing new employment. Failure to identify an acceptable initial or replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be considered a violation of probation.

**6.19. Notification of Departure** (Appropriate for those cases with chemical dependency (alcohol, drugs))

If respondent leaves Prior to leaving the probationary geographic area designated by the board or its designee for a period greater than ~~twenty-four~~ (24) hours, respondent shall notify the board verbally and in writing of the dates of departure and return, prior to leaving. Failure to comply with this provision shall be considered a violation of probation.

**7.20. Abstain from Drugs and Alcohol Use** (Appropriate for those cases with chemical dependency (alcohol, drugs))

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the board or its designee, respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation. Respondent shall ensure that he or she is not in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs. Additionally, respondent shall cause the prescribing practitioner to notify the board in writing, indicating their awareness of the chemical dependency. Additionally, respondent shall cause the prescribing physician to notify the board in writing, indicating their awareness of the chemical dependency. Respondent shall ensure that he or she

is not in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, and/or any physical proximity to persons using illicit substances, shall be considered a violation of probation.

## **8.21. Tolling of Suspension**

During the period of suspension, respondent shall not leave California for any period exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess of ten (10) days during suspension shall be considered a violation of probation. Moreover, any absence from California during the period of suspension exceeding ten (10) days shall toll the suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days respondent is absent from California. During any such period of tolling of suspension, respondent must nonetheless comply with all terms and conditions of probation.

Respondent must notify the board in writing within ten (10) days of departure, and must further notify the board in writing within ten (10) days of return. The failure to provide such notification(s) shall constitute a violation of probation. Upon such departure and return, respondent shall not return to work until notified by the board that the period of suspension has been satisfactorily completed.

~~\_\_\_\_\_ If respondent leaves California to reside or practice outside this state, or for any period exceeding 10 days (including vacation), respondent must notify the board in writing of the dates of departure and return. Periods of residency or practice outside the state or any absence exceeding a period of 10 days shall not apply to the reduction of the suspension period.~~

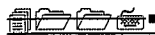
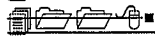
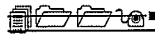

~~Respondent shall not act as a pharmacy technician upon returning to this state until notified by the board that the period of suspension has been completed.~~

**22. Restitution** (Appropriate in cases of drug diversion, theft, fraudulent billing, or patient harm resulting from negligence or incompetence.)

Within \_\_\_\_\_ days of the effective date of this decision, respondent shall pay restitution to \_\_\_\_\_ in the amount of \$ \_\_\_\_\_. Failure to make restitution by this deadline shall be considered a violation of probation.

## **EXEMPTEE DESIGNATED REPRESENTATIVE**

The board files cases against ~~exemptees designated representatives~~ where the violation(s) involve significant misconduct on the part of the licensee. The board believes that revocation is typically the appropriate penalty when grounds for discipline are found to exist. Grounds for discipline include, but are not limited to, the following violation(s) of law(s) involving:

-  Possession of dangerous drugs and/or controlled substances
-  Use of dangerous drugs and/or controlled substances
-  Possession for sale of dangerous drugs and/or controlled substances
-  Personal misuse of drugs or alcohol

If revocation is not imposed, the board recommends a minimum of a Category III level of discipline be imposed on the ~~exemptee designated representative~~. This would include suspension and probation.

~~An exemptee would be required to be reexamined by the board prior to resuming work as an exemptee.~~

## **TERMS OF PROBATION — EXEMPTEE DESIGNATED REPRESENTATIVE**

A minimum three-year probation period has been established by the board as appropriate in most cases where probation is imposed. A minimum five-year probation period has been established by the board as appropriate where self-administration or diversion of controlled substances is involved. Terms and conditions are imposed to provide consumer protection and to allow the probationer to demonstrate rehabilitation. A suspension period may also be required as part of the probation order. The board prefers that any stayed order be for revocation rather than for some period of suspension.

Probation conditions are divided into two categories: (1) standard conditions that shall appear in ~~all~~ all probation cases, and (2) optional conditions that depend on the nature and circumstances of a particular case. These conditions may vary depending on the nature of the offense(s).

The board may also impose any other condition appropriate to the case where the condition is not contrary to public policy.

## **CATEGORY OF VIOLATIONS AND RECOMMENDED PENALTIES**

### **CATEGORY III - Penalty**

Minimum: Revocation; Revocation stayed, 90 days actual suspension, three years probation. All standard terms and conditions shall be included and optional terms and conditions as appropriate.

Maximum: Revocation

Applies to all applicable statutes and regulations



## **MODEL DISCIPLINARY LANGUAGE — EXEMPTEE DESIGNATED REPRESENTATIVE**

The following standardized language shall be used in every decision where the order of condition is imposed.

### **Revocation—~~Single Cause~~**

Designated Representative license Certification number \_\_\_\_\_, issued to respondent \_\_\_\_\_ is revoked. Respondent shall relinquish his or her designated representative pocket certification license to the board within ten (10) days of the effective date of this decision. Respondent may not petition the board for reinstatement of his or her revoked certification-designated representative license for three (3) years from the effective date of this decision.

~~A condition of reinstatement shall be that the respondent retake the exemption certification examination.~~

Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$ \_\_\_\_\_ within fifteen (15) days of the effective date of this decision.

**Option:** As a condition precedent to ~~Upon~~ reinstatement of his or her revoked designated representative license certification respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$ \_\_\_\_\_, ~~and said amount shall be paid in full prior to the reinstatement of his or her certification~~ revoked designated representative license, unless otherwise ordered by the board. ~~If the respondent fails to pay the amount specified, his or her certification shall remain revoked.~~

### **Revocation—~~Multiple Causes~~**

Certification number \_\_\_\_\_, issued to respondent \_\_\_\_\_ is revoked pursuant to Determination of Issues \_\_\_\_\_, separately and together. Respondent shall relinquish his or her pocket certification to the board within 10 days of the effective date of this decision. Respondent may not petition the board for reinstatement of his or her revoked certification for three years from the effective date of this decision. ~~A condition of reinstatement shall be that the respondent retake the exemption certification examination.~~

Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$ \_\_\_\_\_ within 15 days of the effective date of this decision.

**Option:** ~~Upon~~ reinstatement of his or her certification respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$ \_\_\_\_\_, and said amount shall be paid in full prior to the reinstatement of his or her certification. ~~If the respondent fails to pay the amount specified, his or her certification shall remain revoked.~~

### **Suspension—~~Single Cause~~**

As part of probation, Certification number \_\_\_\_\_, issued to respondent \_\_\_\_\_ is suspended from working as a designated representative for \_\_\_\_\_ beginning the effective

date of this decision a period of \_\_\_\_\_.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs licensed by the board, or any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained. Respondent shall not perform any of the duties of a designated representative, nor do any act involving drug selection, selection of stock, manufacturing, dispensing; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices and controlled substances. Respondent shall not resume work until notified by the board.

Respondent shall not direct, control or perform any aspect involving the distribution of dangerous drugs and devices and controlled substances. Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed entity in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

## **Suspension-- Multiple Causes**

Certification number \_\_\_\_\_, issued to respondent is suspended for a period of \_\_\_\_\_ pursuant to Determination of Issues \_\_\_\_\_, separately and together. All suspensions shall run concurrently. Respondent is suspended from the duties of an exemptee for \_\_\_\_\_ beginning the effective date of this decision.

## **Standard Stay/Probation Order**

Designated representative license Certification number \_\_\_\_\_ issued to \_\_\_\_\_ is revoked; however, the revocation is stayed and respondent is placed on probation for \_\_\_\_\_ years upon the following terms and conditions:

### **Issuance of Probationary License** (In cases where a Statement of Issues has been filed.)

Upon satisfaction of all statutory and regulatory requirements for issuance of a license, a license shall be issued to respondent and immediately revoked; the order of revocation is stayed and respondent is placed on probation for \_\_\_\_\_ years upon the following terms and conditions:

## **Surrender**

Respondent surrenders ~~certification~~ designated representative license number \_\_\_\_\_ as of the effective date of this decision. Respondent shall relinquish his or her pocket ~~certification~~ designated representative license to the board within ten (10) days of the effective date of this decision.

The surrender of respondent's license and the acceptance of the surrendered license by the board shall constitute the imposition of discipline against respondent. This decision constitutes a record of discipline and shall become a part of respondent's license history with the board.

Respondent understands and agrees that if he or she ever files an application for licensure or a petition for reinstatement in the State of California, the board shall treat it as a new application for licensure.

Respondent may not reapply for any ~~certification of license~~, permit or registration from the board for three (3) years from the effective date of this decision. Respondent stipulates that should he or she respondent apply for any ~~certification~~ license from the board on or after the effective date of this decision, all allegations set forth in the [accusation or petition to revoke probation] shall be deemed to be true, correct and admitted by respondent when the board determines whether to grant or deny the application. Respondent shall satisfy all requirements applicable to that license as of the date the application is submitted to the board prior to issuance of a new license. Respondent is required to report this surrender as disciplinary action. Should respondent apply for any new license, respondent will be subject to all terms and conditions not previously satisfied.

~~Respondent shall meet all requirements applicable to that certification as of the date the application is submitted to the board, including, but not limited to exemptee reexamination prior to the issuance of a new registration or certification.~~

Respondent further stipulates that he or she shall reimburse the board for its costs of investigation and prosecution in the amount of \$\_\_\_\_\_ within \_\_\_\_\_ days of the effective date of this decision.

**Option:** Respondent stipulates that should he or she apply for any ~~certification license~~ from the board on or after the effective date of this decision, ~~that investigation and prosecution costs in the amount of \$\_\_\_\_\_ shall be paid to the board prior to issuance of the certification new license.~~

### **Public Reprimand**

It is hereby ordered that a public reprimand be issued against designated representative license, \_\_\_\_\_ . Respondent is required to report this reprimand as a disciplinary action.

## Adoption of Stipulation

It is understood by respondent that, in deciding whether to adopt this stipulation, the board may receive oral and written communication from its staff and the ~~Attorney General's Office of the~~ Attorney General. Communications pursuant to this paragraph shall not disqualify the board or other persons from future participation in this or any other matter affecting respondent. In the event this settlement is not adopted by the board, the stipulation will not become effective and may not be used for any purpose, except this paragraph, which shall remain in effect.

**STANDARD CONDITIONS – To be included in all probation decisions/orders.**

Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page \_\_\_\_\_.)

1. ~~\_\_\_\_\_~~ Certification Prior to Resuming Work
- ~~5.~~1. ~~\_\_\_\_\_~~ Obey aAll Laws
- ~~6.~~2. ~~\_\_\_\_\_~~ Reporting to the Board
- ~~7.~~3. ~~\_\_\_\_\_~~ Interview with the Board
- ~~5.~~4. ~~\_\_\_\_\_~~ Cooperatione with Board Staff
- ~~6.~~5. ~~\_\_\_\_\_~~ Notice to Employers
- ~~6.~~ ~~\_\_\_\_\_~~ No Being Designated Representative-in-Charge
- ~~9.~~7. ~~\_\_\_\_\_~~ Reimbursement of Board Costs
- ~~10.~~8. ~~\_\_\_\_\_~~ Probation Monitoring Costs
- ~~15.~~9. ~~\_\_\_\_\_~~ Status of License
10. ~~\_\_\_\_\_~~ License Surrender While on Probation/Suspension
- ~~16.~~11. ~~\_\_\_\_\_~~ Notification of a Change in Name, Residence Address, Employment/Mailing Address or  
Employment Change
- ~~17.~~12. ~~\_\_\_\_\_~~ Tolling of Probation
- ~~18.~~13. ~~\_\_\_\_\_~~ Violation of Probation
- ~~19.~~14. ~~\_\_\_\_\_~~ Completion of Probation
- ~~14.~~ ~~\_\_\_\_\_~~ License Surrender While on Probation/Suspension

**OPTIONAL CONDITIONS**

Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page \_\_\_\_\_.)

1. ~~Actual Suspension~~
- ~~2.~~15. ~~\_\_\_\_\_~~ No Ownership of Licensed Premises
- ~~3.~~16. ~~\_\_\_\_\_~~ Attend Substance Abuse Recovery Relapse Prevention and Support Groups
- ~~4.~~17. ~~\_\_\_\_\_~~ Random Drug Screening
- ~~5.~~18. ~~\_\_\_\_\_~~ Work Site Monitor
- ~~6.~~19. ~~\_\_\_\_\_~~ Notification of Departure
- ~~7.~~20. ~~\_\_\_\_\_~~ Abstain from Drugs and Alcohol Use
- ~~8.~~21. ~~\_\_\_\_\_~~ Tolling of Suspension
22. ~~\_\_\_\_\_~~ Restitution

## STANDARD CONDITIONS - TO BE INCLUDED IN ALL PROBATIONS

### ~~3. Reexamination Prior to Resuming Work~~

~~Respondent shall be suspended from working as an exemptee until he or she takes and passes the exemption examination as scheduled by the board after the effective date of this decision.~~

~~During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food animal drug retailer or any other distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving wholesaling, or repackaging or manufacturing, nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances. Respondent shall not direct or control any aspect of the practice of pharmacy.~~

~~Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy or wholesaler in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.~~

### ~~2.1. Obey All Laws~~

~~Respondent shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy.~~

Respondent shall report any of the following occurrences to the board, in writing, within seventy-two (72) hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- an arrest or issuance of a criminal complaint for violation of any state or federal law
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for of any drug, device or controlled substance.

Failure to timely report any such occurrence shall be considered a violation of probation.

### ~~3.2. Reporting to the Board~~

Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, Respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended

~~automatically~~ until such time as the final report is made and accepted by the board.

#### **4.3. Interview with the Board**

Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the board or its designee, upon request at ~~various~~such intervals at ~~a~~and locations ~~to be as are~~ determined by the board or its designee. Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear for two (2) or more scheduled interviews with the board or its designee during the period of probation, shall be considered a violation of probation.

#### **5.4. Cooperation with Board Staff**

Respondent shall cooperate with the board's inspectional program and in with the board's monitoring and investigation of respondent's compliance with the terms and conditions of his or her probation. Failure to ~~comply~~ cooperate shall be considered a violation of probation.



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## **6.5. Notice to Employers**

During the period of probation, Respondent shall notify all present and prospective employers of the decision in case number \_\_\_\_\_ and the terms, conditions and restrictions imposed on respondent by the decision, as follows:-

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause his or her direct supervisor, designated representative-in-charge (including each new designated representative-in-charge employed during respondent's tenure of employment) and owner employer to report to the board in writing acknowledging that the listed individual(s) has/have employer has read the decision in case number \_\_\_\_\_ and terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the board.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify the pharmacist-in-charge his or her direct supervisor, designated representative-in-charge and/or owner at every pharmacy each entity licensed by the board of the terms and conditions of the decision in case number \_\_\_\_\_ in advance of the respondent commencing work at each pharmacy licensed entity. A record of this notification must be provided to the board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment by or through a pharmacy employment service, respondent shall cause his or her direct supervisor with the pharmacy employment service to report to the board in writing acknowledging that he or she has read the decision in case number \_\_\_\_\_ and the terms and conditions imposed thereby. It shall be the respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgements to the board shall be considered a violation of probation.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary or relief service or pharmacy management service as a ~~pharmacy technician~~ designated representative or in any position for which a designated representative license is a requirement or criterion for employment, whether the respondent is considered an employee or independent contractor or volunteer.

## **6. No Being Designated Representative-in-Charge**

During the period of probation, respondent shall not be the designated representative-in-charge of any entity licensed by the board unless otherwise specified in this order. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

## **7. Reimbursement of Board Costs**

As a condition precedent to successful completion of probation, Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$\_\_\_\_\_. Respondent shall make said payments as follows: \_\_\_\_\_. There shall be no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the

deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by respondent shall not relieve respondent of his or her responsibility to reimburse the board its costs of investigation and prosecution.

~~Option: If respondent fails to make any payment by the directed deadline(s), the stay shall terminate and the license shall be revoked without further notice or opportunity to be heard.~~

## **8.       —Probation Monitoring Costs**

Respondent shall pay the any costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board ~~at the end of each year of probation on a schedule as directed by the board or its designee.~~ Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

## **9.       —Status of License**

Respondent shall, at all times while on probation, maintain an active, current ~~certification~~ designated representative license with the board, including any period during which suspension or probation is tolled. Failure to maintain an active, current license shall be considered a violation of probation.

If respondent's ~~certification~~ designated representative license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication, respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

## **10. License Surrender While on Probation/Suspension**

Following the effective date of this decision, should respondent cease work due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her designated representative license to the board for surrender. The board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the board.

Upon acceptance of the surrender, respondent shall relinquish his or her designated representative license to the board within ten (10) days of notification by the board that the surrender is accepted. Respondent may not reapply for any license, permit, or registration from the board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.

## **10.11. Notification of a Change in Name, Residence Address, Employment/Mailing Address or Employment Change**

Respondent shall notify the board in writing within ten (10) days of any change of employment. Said notification shall include the reasons for leaving and ~~for~~ the address of the new employer,

supervisor ~~or~~ and owner and work schedule, if known. Respondent shall further notify the board in writing within ten (10) days of a change in name, residence address and mailing address, or phone number.

Failure to timely notify the board of any change in employer(s), name(s), address(es), or phone number(s) shall be considered a violation of probation.

#### **41.12. Tolling of Probation**

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a designated representative in California for a minimum of \_\_\_\_\_ hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation.

It is a violation of probation for respondent to work less than \_\_\_\_\_ hours per month as an exemptee. Should respondent, regardless of residency, for any reason (including vacation) cease practicing working as an exemptee designated representative for a minimum of \_\_\_\_\_ hours in California, respondent must notify the board in writing within ten (10) days of cessation of practice work and must further notify the board in writing within ten (10) days of or the resumption of the practice work. Any failure to provide such notification(s) shall be considered a violation of probation. Such periods of time shall not apply to the reduction of the probation period.

It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding three consecutive years thirty-six (36) months.

"Cessation of practicework" means any period of time exceeding 30 days calendar month during in which respondent is not engaged in the practice of a pharmacy technician working as a designated representative for at least \_\_\_\_\_ hours as a designated representative as defined in section \_\_\_\_\_ of the by Business and Professions Code section 4053 or as an exemptee as defined in section \_\_\_\_\_ of the Business and Professions Code. "Resumption of work" means any calendar month during which respondent is working as a designated representative for at least \_\_\_\_\_ hours as a designated representative as defined by Business and Professions Code section 4053.

#### **42.13. Violation of Probation**

If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.

\_\_\_\_\_ If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which that was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. If a petition to revoke probation or an accusation is filed against respondent

during probation, the board shall have continuing jurisdiction, and the period of probation shall be automatically extended, until the petition to revoke probation or accusation is heard and decided.

~~\_\_\_\_\_ If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.~~

### **13.14. Completion of Probation**

Upon written notice by the board indicating successful completion of probation, respondent's certificate designated representative license will be fully restored.

### **14. License Surrender while on Probation/Suspension**

~~Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her license to the board for surrender. The board shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation.~~

~~Upon acceptance of the surrender, respondent shall relinquish his or her pocket license to the board within 10 days of notification by the board that the surrender is accepted. Respondent may not reapply for any license from the board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.~~



## OPTIONAL CONDITIONS OF PROBATION

### 2. Actual Suspension

3. —

— As part of probation, respondent is suspended from the duties of a pharmacy technician for \_\_\_\_\_ beginning the effective date of this decision.

— During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

— Subject to the above restrictions, respondent may continue to own or hold an interest in any entity licensed by the board in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

— During suspension, respondent shall not perform any of the duties of a pharmacy technician as provided by Section 1793.2 of the California Code of Regulations.

### 2.15. No Ownership of Licensed Premises

Respondent shall not own, have any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90) days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.

**Option:** Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any additional business, firm, partnership, or corporation licensed by the board. If respondent currently owns or has any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold that interest, but only to the extent of that position or interest as of the effective date of this decision. Violation of this restriction shall be considered a violation of probation.

### 3.16. Attend Substance Abuse Recovery Relapse Prevention and Support Groups (Appropriate for those cases with chemical dependency (alcohol, drugs))

Within thirty (30) days of the effective date of this decision, respondent shall begin regular attendance at a board-approved recognized and established substance abuse recovery support group in California, (e.g., Alcoholics Anonymous, Cocaine-Narcotics Anonymous, etc.) which has been approved by the board or its designee. Respondent must attend at least one group

meeting per week unless otherwise directed by the board or its designee. Respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the duration of probation. Failure to attend or submit documentation thereof shall be considered a violation of probation.

**4.17. Random Drug Screening** (Appropriate for those cases with chemical dependency (alcohol, drugs))

Respondent, at his or her own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or ~~a other~~ drug screening program approved as directed by the board or its designee. ~~The length of time shall be for the Respondent may be required to participate in testing for the entire probation period and the frequency of testing will be determined by the board or its designee.~~ At all times respondent shall fully cooperate with the board or its designee, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its designee may direct. Failure to timely submit to testing as directed shall constitute be considered a violation of probation. Upon request of the board or its designee, respondent shall provide documentation from a licensed practitioner that the prescription for a detected drug was legitimately issued and is a necessary part of the treatment of the respondent. Failure to timely provide such documentation shall be considered a violation of probation. Any confirmed positive drug test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall be considered a violation of probation and shall result in the immediate automatic suspension of practice work by respondent. Respondent may not resume the practice of pharmacy work as a designated representative until notified by the board in writing.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs licensed by the board, or any drug manufacturer, or any other location where dangerous drugs and devices or controlled substances are maintained. Respondent shall not perform any of the duties of a designated representative, nor do any act involving drug selection, selection of stock, manufacturing, dispensing; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices and controlled substances. Respondent shall not resume work until notified by the board.

Respondent shall not direct, control or perform any aspect involving the distribution of dangerous drugs and devices and controlled substances. Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed entity in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

**5.18. Work Site Monitor** (Appropriate for those cases with chemical dependency (alcohol, drugs))

Within ten (10) days of the effective date of this decision, respondent shall identify a work site monitor, for prior approval by the board, who shall be responsible for supervising respondent during working hours. Respondent shall be responsible for ensuring that ~~the~~ work site monitor shall report reports in writing to the board quarterly. Should the designated work site monitor determine at any time during the probationary period that respondent has not maintained



sobriety, he or she shall notify the board immediately, either orally or in writing as directed. Should respondent change employment, a new work site monitor must be designated, for prior approval by the board, within ten (10) days of commencing new employment. Failure to identify an acceptable initial or replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be considered a violation of probation.

**6.19. Notification of Departure** (Appropriate for those cases with chemical dependency (alcohol, drugs))

~~If respondent leaves~~ Prior to leaving the probationary geographic area designated by the board or its designee for a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in writing of the dates of departure and return, prior to leaving. Failure to comply with this provision shall be considered a violation of probation.

**7.20. Abstain from Drugs and Alcohol Use** (Appropriate for those cases with chemical dependency (alcohol, drugs))

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the board or its designee, respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of the treatment of the respondent. ~~Respondent shall ensure that he or she is not in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs. Additionally, respondent shall cause the prescribing practitioner to notify the board in writing, indicating their awareness of the chemical dependency.~~ Additionally, respondent shall cause the prescribing physician to notify the board in writing, indicating their awareness of the chemical dependency. Failure to timely provide such documentation shall be considered a violation of probation. Respondent shall ensure that he or she is not in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia not supported by the documentation timely provided, and/or any physical proximity to persons using illicit substances, shall be considered a violation of probation.

## **8.21. Tolling of Suspension**

During the period of suspension, respondent shall not leave California for any period exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess of ten (10) days during suspension shall be considered a violation of probation. Moreover, any absence from California during the period of suspension exceeding ten (10) days shall toll the suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days respondent is absent from California. During any such period of tolling of suspension, respondent must nonetheless comply with all terms and conditions of probation.

Respondent must notify the board in writing within ten (10) days of departure, and must further notify the board in writing within ten (10) days of return. The failure to provide such notification(s) shall constitute a violation of probation. Upon such departure and return, respondent shall not resume work until notified by the board that the period of suspension has been satisfactorily completed.

~~\_\_\_\_\_ If respondent leaves California to reside or practice outside this state, or for any period exceeding 10 days (including vacation), respondent must notify the board in writing of the dates of departure and return. Periods of residency or practice outside the state or any absence exceeding a period of 10 days shall not apply to the reduction of the suspension period.~~

~~\_\_\_\_\_ Respondent shall not act as a pharmacy technician upon returning to this state until notified by the board that the period of suspension has been completed.~~

## **22. Restitution** (Appropriate in cases of drug diversion, theft, fraudulent billing, or patient harm resulting from negligence or incompetence.)

Within \_\_\_\_\_ days of the effective date of this decision, respondent shall pay restitution to \_\_\_\_\_ in the amount of \$ \_\_\_\_\_. Failure to make restitution by this deadline shall be considered a violation of probation.

## TERMS OF PROBATION – PREMISES

A minimum three-year probation period has been established by the board as appropriate in most cases where probation is imposed. A minimum five-year probation period has been established by the board as appropriate where self-administration or diversion of controlled substances ~~is involved~~ has occurred at a licensed premises. Terms and conditions are imposed to provide consumer protection ~~and to allow the probationer to demonstrate rehabilitation~~. A suspension period may also be required as part of the probation order. The board prefers that any stayed order be for revocation rather than for some period of suspension.

Probation conditions are divided into two categories: (1) standard conditions that shall appear in ~~all~~ all probation cases, and (2) optional conditions that depend on the nature and circumstances of a particular case. These conditions may vary depending on the nature of the offense(s).

The board may also impose any other condition appropriate to the case where the condition is not contrary to public policy.

## CATEGORIES OF VIOLATIONS AND RECOMMENDED PENALTIES

The California Pharmacy Law ~~specifies the~~ identifies offenses for which the board may take disciplinary action against a license. ~~The following are categories of violations used by the board in determining appropriate disciplinary penalties. Included among grounds for discipline are violations of the Pharmacy Law itself, violations of regulations promulgated by the board, and violations of other state or federal statutes or regulations.~~

The following are categories of possible violations used by the board to determine appropriate disciplinary penalties. These categories represent the judgment of the board as to the perceived seriousness of particular offenses.

Under each category, the board has grouped statutes and regulations where violations would typically merit the recommended range of minimum to maximum penalties for that category. These lists are representative, and are not intended to be comprehensive or exclusive. Where a violation not included in these lists is a basis for disciplinary action, the appropriate penalty for that violation may be best derived by comparison to any analogous violation(s) that are included. Where no such analogous violation is listed, the category descriptions may be consulted.

These categories assume a single violation of each listed statute or regulation. For multiple violations, the appropriate penalty shall increase accordingly. Moreover, if an individual has committed violations in more than one category, the minimum and maximum penalties shall be those recommended in the highest category.

The board also has the authority, pursuant to Business and Professions Code section 4301(n), to impose discipline based on disciplinary action taken by another jurisdiction. The discipline imposed by the board will depend on the discipline imposed by the other jurisdiction, the extent of the respondent's compliance with the terms of that discipline, the nature of the conduct for which the discipline was imposed, and other factors set forth in these guidelines.

## CATEGORY I

Minimum: Revocation; Revocation stayed; one-year probation. All standard terms and conditions shall be included and optional terms and conditions as appropriate.

Maximum: Revocation

Category I discipline is recommended for:

- violations which are relatively minor but are potentially harmful
- repeated violations of a relatively minor nature:

Violations of the following codes are as follows representative of this category:

## BUSINESS AND PROFESSIONS CODE

### Article 3. Scope of Practice and Exemptions

- |      |  |
|------|--|
| 4053 | <del>Exemptee Supervisor of Manufacturers, etc.: Requirements</del> <u>Wholesalers, and Licensed Laboratories; Veterinary Food Animal Drug Retailers</u> |
| 4054 | <del>Supplying Dialysis Drugs</del> <u>Supply by Manufacturer, etc. of Certain Dialysis Drugs and Devices</u>  |
| 4056 | <del>Exempt Hospitals</del> <u>Purchase of Drugs at Wholesale – Hospital Containing 100 Beds or Less</u>   |
| 4057 | <del>Exempt Articles</del> <u>Exceptions to Application of this Chapter</u>  |
| 4058 | <del>License to be Displayed</del> <u>Display of Original License</u>  |
| 4062 | <del>Furnishing Drugs during Emergency</del> <u>Furnishing Dangerous Drugs During Emergency</u>  |
| 4064 | <u>Emergency Refills of Prescription Without Prescriber Authorization</u>  |
| 4065 | <del>Administration through Injection Card System</del> <u>Injection Card System; Requirements for Administration</u>                                    |
| 4066 | <del>Furnishing to Ocean</del> <u>Dangerous Drugs to Master or First Officer of Vessel</u>   |

### Article 4. Requirements for Prescription

- |      |   |
|------|---|
| 4070 | <u>Reduction of Oral or Electronic Prescription to Writing</u>  |
| 4071 | <u>Prescriber's May Authorize Agent to Transmitting Prescriptions; Schedule II Excluded</u>                   |
| 4072 | <del>Oral or Electronic Transmitting</del> <u>Transmission of Prescriptions from a - Health Care Facility</u> |
| 4073 | <u>Substitution of Generic Drug Product Selection- Requirements and Exceptions</u>                            |
| 4074 | <del>Drug Warnings</del> <u>Risk: Informing Patient; Providing Consultation for Discharge Medications</u>     |
| 4076 | <u>Prescription Container - Label Requirements for Labeling</u>   |
| 4077 | <del>Labeling</del> <u>Dispensing Dangerous Drug in Incorrectly Labeled Container</u>                         |

### Article 5. Authority of Inspectors

- |      |   |
|------|---|
| 4082 | <del>Information about Personnel</del> <u>Names of Owners, Managers and Employees Open for Inspection</u> |
|------|---|

## Article 6. General Requirements

- 4100 Change of Name or Address or Name – Notification to Board
- 4102 ~~Skin Puncture for Patient Training~~
- 4103 Blood Pressure Measurement- Taking by Pharmacist

## Article 7. Pharmacies

- 4114 Intern Pharmacist; Activities Permitted
- 4120 ~~Emergency Kit for Licensed Health Care Facilities~~
- 4119.5 Transferring or Repackaging Dangerous Drugs by Pharmacy
- 4120 Nonresident Pharmacy: Registration Required
- 4121 Advertisement for Prescription Price Advertising Drug: Requirements; Restrictions
- 4122 Requests for Required Notice at Availability of Prescription Price Information, General Product Availability, Pharmacy Services; Providing Drug Price Information; Limitations on Price Information Requests
- 4123 Pharmacy contracts for Compounding of Parenteral Drugs Compounding Drug for Other Pharmacy for Parenteral Therapy; Notice to Board
- 4124 Contact Lens Dispensing Replacement Contact Lenses: Requirements; Patient Warnings; Registration with Medical Board; Application of Section to Nonresident Pharmacies

## Article 9. Hypodermic Needles and Syringes

- 4141 Furnishing Without License Required
- 4142 Prescription Required
- 4143 Exemption: Wholesale Sales to Other Entity, Physician, etc.
- 4144 Exemption: Industrial Uses Exception
- 4145 Exemption: Human (Insulin; Adrenaline) or Animal Use Exception: Furnishing for Administration of Insulin, Adrenaline, or Specified Animal Uses; Conditions
- 4146 ~~Hypodermic Register~~
- 4148 Confiscation if Found Outside Licensed Premises
- 4149 Nonresident Sale by Distributor

## Article 10. Pharmacy Corporations

- 4151 Licensure Requirements for Shareholders, Directors, and Officers
- 4152 Corporate Name Requirements
- 4153 Shareholder Income while Disqualified
- 4156 Unprofessional Conduct by Corporation

## Article 11. Wholesalers and Manufacturers

- 4161 Out of State Manufacturer or Nonresident Wholesaler: When License Required; Application
- 4162 Registration Agent Issuance or Renewal of Wholesaler License; Surety Bond
- 4164 Sales to Unauthorized Persons Reports Required
- 4165 Sale or Transfer of Dangerous Drug or Device Into State: Furnishing Records to Authorized Officer on Demand; Citation for Non-compliance
- 4166 Responsibility until Delivery Shipping of Dangerous Drugs or Devices – Wholesaler

- 4167 or Distributor  
Wholesaler: Bar on Obtaining Dangerous Drugs or Devices It More Than Cannot  
Maintain Be Stored on Licensed Premises

### Article 13. Non-Profit or Free Clinics

- ~~4182 License Required (Non-Profit, etc Clinics)~~  
~~4183 License Requirements~~  
4180 Purchase of Drugs at Wholesale Only with License: Eligible Clinics  
4181 License Requirements; Policies and Procedures; Who May Dispense  
4182 Application Duties of Professional Director; Consulting Pharmacist Required  
4183 No Medi-Cal Professional Dispensing Fee  
4184 No Schedule II Dispensing Schedule II Substance Prohibited  
4186 Professional Director Automated Drug Delivery Systems

### Article 14. Surgical Clinics

- 4190 Purchase of Drugs at Wholesale: Permitted Uses of Drugs; Required Records and  
Policies; License Required (Surgical Clinic)  
4191 License Compliance with Department of Health Services Requirements; Who May  
Dispense Drugs  
4192 Duties of Professional Director; Providing Information to Board  
4193 No Medi-Cal Clinic Not Eligible for Professional Dispensing Fee; Ban on Offering  
Drugs for Sale  
4194 No Schedule II Dispensing of Schedule II Substance by Clinic Prohibited; Physician  
May Dispense; Administration Authorized in Clinic

### Article 15. Veterinary Food-Animal Drug Retailers

- 4196 License Required; Temporary License on Transfer of Ownership; Persons  
Authorized in Storage Area; Security  
4197 Minimum Standards; Security; Sanitation; Board Regulations; Waivers  
4198 Written Policies and Procedures Required; Contents; Training of Personnel;  
Quality Assurance; Consulting Pharmacist

### Article 17. Continuing Education

- ~~4233 Renewal Requirements~~  
~~4234 Course Content~~  
4231 Requirements for Renewal of Pharmacist License: Clock Hours; Exemption for New  
Licensee  
4232 Content of Courses

### Article 18. Poisons

- 4240 Application of Act

## Article 20. Prohibitions and Offenses

- 4341 Advertising in Compliance with Sections 651.3~~Advertisement of Prescription Drugs or Devices~~
- 4343 Use of Sign with "Pharmacy" or Similar Terms~~Buildings: Prohibition Against Use of Certain Signs Unless Licensed Pharmacy Within~~

## CALIFORNIA CODE OF REGULATIONS, TITLE 16

- 1704 Change of a~~Address~~—~~reporting a change of address~~
- 1705 Notification of Bankruptcy, Receivership or Liquidation—~~reporting the sale, inventory and location of records of dangerous drugs by a pharmacy, wholesaler or manufacturer in bankruptcy~~
- 1708.2 Discontinuance of b~~Business~~—~~notification to board of a discontinuance of business and submission of appropriate forms~~
- 1708.4 Pharmacist h~~Handling~~ r~~Radioactive~~ d~~Drugs~~—~~training of a nuclear pharmacist~~
- 1708.5 Pharmacy Furnishing Radioactive Drugs—~~nuclear pharmacy requirements~~
- 1709 Names of Owners and p~~Pharmacist-in-charge~~—~~required information on a pharmacy permit, reporting PIC and owners on initial and renewal applications, and reporting of corporate officer changes~~
- 1714 Building Operational Standards and Security
- 1715.6 Reporting d~~Drug~~ l~~Loss~~—~~reporting loss of controlled substances to the Board within thirty (30) day~~
- 1716 Variation from p~~Prescriptions~~—~~prescription errors, deviation from prescription without consent of prescriber~~
- 1717 Pharmaceutical Pharmaceutical p~~Practice~~—~~dispensing in new containers, pharmacist maintain on prescription record: date and initial of pharmacist, brand name of drug or device and indication if generic and manufacturer name, refill information, orally transmitted prescription requirements, depot of a prescription or a medication, prescription transfers, identification of pharmacist responsible for filling a prescription~~
- 1717.1 Common Electronic Files—~~establishing a common electronic file to maintain required dispensing information~~
- 1717.4 Electronic Transmission of Prescriptions—~~transmitting prescriptions by electronic means from prescriber to the pharmacy~~
- 1718.1 Manufacturer's Expiration Date—~~handling of prescription drugs not bearing a manufacturer's expiration date pursuant to federal law~~
- 1726 Preceptor~~Supervision of Intern Pharmacists~~
- 1727 Intern Pharmacist
- 1728 Intern Experience—Requirements for Licensure~~Examination~~
- 1732.1 Requirements for Recognized Accredited Providers—~~requirements to provide continuing education courses as a recognized provider for California pharmacists~~
- 1732.3 Coursework Approval for ProvidersRequirements for Continuing Education Courses
- 1732.4 Provider Audit Requirements

- 1732.5     Renewal Requirements for Pharmacist
- 1744     Drug wWarnings—oral or written warnings when a drug should not be taken with alcohol or when a person should not drive
- 1751 to
- 1751.09 and
- 1751.11 to
- 1751.12     Compounding Area for Parenteral Solutions—parenteral therapy requirements for pharmacists and pharmacies
- 1751     Sterile Injectable Compounding Area
- 1751.01     Facility and Equipment Standards for Sterile Injectable Compounding from Non-Sterile Ingredients
- 1751.02     Policies and Procedures
- 1751.11     Furnishing to Home Health Agencies and Licensed Hospices
- 1751.12     Obligations of a Pharmacy Furnishing Portable Containers
- 1771     Posting of nNotice of sSuspension—suspended pharmacy must post a notice of suspension
- 1772     Disciplinary eConditions of sSuspension—suspended pharmacist shall not enter a pharmacy prescription area or perform pharmacy related duties
- 1780     Minimum sStandards for wWholesalers
- 1780.1     Minimum Standards for Veterinary Food-Animal Drug Retailers
- 1781     Exemption eCertificate—exemptee must be present in a manufacturer's or wholesaler's licensed premises
- 1786     Exemptions—return of exemption certificate to board upon termination of employment
- 1787     Authorization to Distribute Hemodialysis Drugs and Devices
- 1790     Assembling and Packaging
- 1791     Labeling
- 1792     Receipt of for Shipment

## HEALTH AND SAFETY CODE, TITLE 22

- 11100     Report of Certain Chemical: Chemicals Included; Exclusions; Penaltiescontrolled substance transaction—reporting sales of restricted chemicals to Department of Justice
- 11100.1     Report of Chemicals controlled substances rReceived from eOutside sState; Penalties—reporting Purchases of restricted chemicals from outside California
- 11124     Inventory of Controlled Substances
- 11151     Limitation on Filling Prescriptions From Medical Students Issued By Unlicensed Person Lawfully Practicing Medicine
- 11158     Prescription rRequired for Schedule I, II, III, or IV, or V eControlled sSubstances—prescriptions for controlled substances must comply with requirements prior to dispensing; Exception for Limited Dispensing, Administration
- 11159     Chart Order Exemption for pPatient in eCounty or lLicensed hHospital; Maintaining Record for Seven Years—controlled substance orders in hospitals
- 11159.1     Chart Order Exemption for Clinic RecordsPatient; Maintaining Record for Seven Years
- 11159.2     Exception to Triplicate Prescription RequirementTerminally III Exception
- 11167     Emergency dDispensing of Schedule II sSubstance; Circumstances and Requirements—emergency oral Schedule II prescriptions; must receive a triplicate within seventy-two (72) hours



- 11167.5 Emergency ~~e~~Oral or Electronic ~~p~~Prescriptions for Schedule II Controlled Substance for Specified ~~i~~n-patients, Residents, and Home Hospice Patients; Requirements—oral orders for Schedule II drugs in a skilled nursing facility, intermediate care facility, or a home health care agency providing hospice care; pharmacy to obtain special triplicates from Dept. of Justice; facility must forward all signed order to the pharmacy
- 11171 Prescribing, etc. Controlled Substance Only as Authorized ~~administering, or furnishing controlled substance — furnishing controlled substances must be consistent with law~~
- 11172 Antedating or ~~p~~Postdating ~~p~~Prescription Prohibited
- 11175 Prohibition on Obtaining and ~~or~~ ~~p~~Possession ~~ing~~ ~~n~~Nonconforming ~~p~~Prescription; Prohibition on ~~e~~Obtaining ~~e~~Controlled ~~s~~Substance by ~~n~~Nonconforming ~~p~~Prescription
- 11180 Prohibition on Controlled ~~s~~Substance ~~e~~Obtained or ~~p~~Possessed by ~~n~~Nonconforming ~~p~~Prescription — possession of a controlled substance obtained from noncomplying prescriptions
- 11200 Restrictions on ~~d~~Dispensing or ~~r~~Refilling; Refill of Schedule II Prescription Barred—refill restrictions of controlled substances
- 11201 Emergency Refill by Pharmacist of Schedule III, IV, or V Prescription; Circumstances; Requirements
- 11205 Maintenance and ~~r~~Retention of Records in Separate ~~f~~File—separate prescription file for Schedule II prescriptions
- 11206 Required ~~i~~nformation on Prescription—information required on a prescription for controlled substances
- 11209 Delivery of Controlled ~~and~~ Receiving Requirements for Schedule II, III, and IV Substances; Violation
- 11210 Issuing Prescription: By Whom; For What Purpose; Quantity to Be Prescribed under authorized project — a prescriber may not prescribe controlled substances to treat addiction
- 11250 Authorized Retail Sale by Pharmacists to Physicians, etc.; Required Order Form
- 11251 Authorized Wholesale Sale by Pharmacists
- 11252 Preservation of ~~f~~Federally ~~r~~Required ~~f~~Forms—a wholesaler or manufacturer must maintain records of sales
- 11253 Duration of ~~r~~Retention
- 11255 Actions ~~e~~Constituting ~~s~~Sale—orders for future delivery constitutes a sale of a controlled substance
- 11256 Required Report of Order ~~b~~By or Sale to Out-of-State Wholesaler or Manufacturer
- 111225 to
- 111655 Adulterated or Misbranded Drugs or Devices

## CODE OF FEDERAL REGULATIONS, TITLE 21

- 1301.13 Persons ~~Required to Register~~ Application for registration; time for application; expiration date; registration for independent activities; application forms, fees, contents and signature; coincident activities.
- 1301.14 Separate Registration for Separate Locations Filing of application; acceptance for filing; defective applications.
- 1301.71 Security requirements, generally.
- 1301.72 Physical security controls for non-practitioners; narcotic treatment programs and compounders for narcotic treatment programs; storage areas.
- 1301.73 Physical security controls for non-practitioners; compounders for narcotic treatment

- programs; manufacturing and compounding areas.
- 1301.74 Other security controls for non-practitioners; narcotic treatment programs and compounders for narcotic treatment programs.
- ~~4.1301.77 Physical s~~Security controls for practitioners~~freight forwarding facilities.~~
- ~~5. Other Security Controls for Practitioners~~
- 1301.90 Employee screening procedures.
- 1301.91 Employee responsibility to report drug diversion.
- 1301.92 Illicit activities by employees.
- 1302.03 Symbol required; exceptions.
- 1302.04 Location and size of symbol on label and labeling.
- 1302.05 Effective ~~D~~ates of L~~abeling R~~requirements.
- 1302.06 Sealing of controlled substances.
- 1302.07 Labeling and packaging requirements for imported and exported substances.
- ~~1304.18 Inventories of importers and exporters~~
- 1304.11 Inventory requirements.
- 1304.31 Reports from manufacturers importing ~~opium~~narcotic raw material.
- 1304.32 Reports of manufacturers importing medicinal-coca leaves.
- 1304.33 Reports to ARCOS.
- ~~1305.03 to~~
- ~~1305.06 and~~
- ~~1305.08 to~~
- ~~1305.12 and~~
- ~~1305.14 to~~
- ~~1305.16 Distributions requiring order forms; persons entitled to obtain and execute order forms; procedure for obtaining order forms; procedure for executing order forms; persons entitled to fill order forms; procedure for filling order forms; procedure for endorsing order forms; unaccepted and defective order forms; lost and stolen order forms; return of unused order forms~~
- 1305.03 Distributions requiring a Form 222 or a digitally signed electronic order.
- 1305.04 Persons entitled to order Schedule I and II controlled substances.
- 1305.05 Power of attorney.
- 1305.06 Persons entitled to fill orders for Schedule I and II controlled substances.
- 1305.11 Procedure for obtaining DEA Forms 222.
- 1305.12 Procedure for executing DEA Forms 222.
- 1305.14 Procedure for endorsing DEA Forms 222.
- 1305.15 Unaccepted and defective DEA Forms 222.
- 1305.16 Lost and stolen DEA Forms 222.
- 1306.03 Persons entitled to issue prescriptions.
- 1306.05 Manner of issuance of prescriptions.
- 1306.14 Labeling of substances and filling of prescriptions.—Schedule II.
- 1306.24 Labeling of substances and filing of prescriptions.—Schedule III and IV
- ~~4. Transfer of Schedule III, IV, and V Prescriptions~~
- 1306.25 Transfer between pharmacies of prescription information for Schedules III, IV, and V controlled substances for refill purposes.
- 1306.26 Dispensing ~~W~~without a P~~rescription.~~
- 1307.11 Distribution by dispenser to another practitioner or reverse distributor.—
- 1307.12 ~~Manufacture and d~~Distribution of narcotic solutions and compounds by a pharmacist to supplier or manufacturer.
- 1307.13 ~~Distribution to supplier~~Incidental manufacture of controlled substances.
- 1307.21 Procedure for disposing of controlled substances.
- 1700.1 to

1707.15 Child-resistant containers.

## **MISCELLANEOUS - HEALTH AND SAFETY CODE, TITLE 22**

411225 to

411655 — Adulterated or misbranded drugs or devices

## **MISCELLANEOUS - FEDERAL REGULATIONS**

16 CFR 1700.1 to

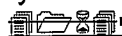
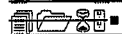
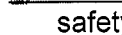
1707.15 — Child-resistant containers

## **CATEGORY II**

Minimum: Revocation; Revocation stayed, three years probation (five years probation where self-administration or diversion of controlled substances is involved occurred at the licensed premises). All standard terms and conditions shall be included and optional terms and conditions as appropriate.

Maximum: Revocation

Category II discipline is recommended for:

-  violations with a serious potential for harm
-  violations which involve greater disregard for pharmacy law and public safety
-  violations which reflect on ethics, care exercised or competence or a criminal conviction not involving dangerous drugs or controlled substances or involving possession or use of dangerous drugs or controlled substances.

Violations of the following codes are as follows representative of this category:

## BUSINESS AND PROFESSIONS CODE

- 650 Rebates or Discounts for Referral Prohibited
- 650.1 Lease Prohibition – Hospitals or Prescribers
- 651 Professional Advertising Requirements

### Article 3. Scope of Practice and Exemptions

- 4051(b) Conduct Authorized by Pharmacist from Outside Pharmacy
- 4052 conduct Authorized by Pharmacist Furnishing to Prescriber; Permissible Procedures by Pharmacist in Health Care Facility or Clinic or for Other Health Care Provider
- 4060 Possession of Controlled Substance – Prescription Required; Exceptions
- 4061 Distribution of Sample Drugs as Sample; Written Request Required
- 4064 Emergency Refills of Prescription Without Prescriber Authorization
- 4067 Internet; Prescription Dispensing over the Internet Dangerous Drugs or Devices without Prescription
- 1794 Proof of Identity of Recipient for Controlled Substance Prescriptions
- 1306 False or Misleading Labeling
- 4075 Proof of Identity Required – Oral or Electronic Prescription
- 4078 False or Misleading Label on Prescription

### Article 6. General Requirements

- 4101 Termination as Pharmacist in Charge, Exemptee: Termination of Employment; ; Notice Notification to Board
- 4106 Licensed Employee: Theft or Impairment
- 4107 Retaining Records on Premises
- 4104 Licensed Employee, Theft or Impairment: Pharmacy Procedures
- 4105 Retaining Records of Dangerous Drugs and Devices on Licensed Premises; Temporary Removal; Waivers; Access to Electronically Maintained Records

### Article 7. Pharmacies

- 4121 Non-Resident Pharmacy Registration
- 4112 Nonresident Pharmacy: Registration; Provision of Information to Board; Maintaining Records; Patient Consultation
- 4113 Pharmacist in Charge: Notification to Board; Responsibilities
- 4115 Pharmacy Technician: Activities Permitted; Required Supervision; Activities Limited to Pharmacist; Registration; Requirements for Registration; Ratios
- 4117 Pharmacy Technician Activities
- 4115.5 Pharmacy Technician Trainee; Placement; Supervision; Requirements
- 4116 Security of Dangerous Drugs and Devices in — Pharmacy; Pharmacist Responsibility for Individuals on Premises; Regulations
- 4117 Security — Hospital Pharmacy Admission to Area Where Narcotics are Stored, etc. — Who May Enter
- 4120 Non-Resident Pharmacy: Registration Required
- 4125 Pharmacy Quality Assurance Program Required; Records Considered Peer Review Documents

## Article 9. Hypodermic Needle and Syringes

- 4140 Unlawful Possession
- 4147 Disposal of Needle or Syringe

## Article 11. Wholesalers and Manufacturers

- 4161 Nonresident Wholesaler: When License Required; Application
- 4163 Sales to Unauthorized Persons Furnishing by Manufacturer or Wholesale
- 4164 Reporting by Manufacturer and Wholesalers Reports Required
- 4169(a)(1) Prohibited Acts

## Article 13. Non-Profit of Free Clinics

- 4185 Inspections Permitted

## Article 14. Surgical Clinics

- 4195 Inspection s Permitted

## Article 19. Disciplinary Proceedings

- 4301 General uUnprofessional eConduct and-- subsections (a)-(h), (i), and (l) through-  
(q)
- 4302 Pharmacy CorporationDiscipline of Corporate Licensee for Conduct of Officer,  
Director, Shareholder
- 4303 Nonresident Pharmacy: Grounds for Discipline
- 4304 Out-of-Sstate Distributor;s Authority to Discipline
- 4307~~Failure to Notify Board of Termination of Pharmacist in Charge; Operation of Pharmacy~~  
~~without a Pharmacist~~
- 4305 Disciplinary Grounds: Failure of Pharmacy, Pharmacist to Notify Board of  
Termination of Pharmacist in Charge; Continuing to Operate Without Pharmacist
- 4305.5 Disciplinary Grounds: Failure of Other Entity Licensed by Board, ofto Keep  
Pharmacist in Charge or Exemptee in Charge; Failure to Notify Board of  
Termination of SamePharmacist in Charge or Exemptee; Continuing to Operate  
Without Pharmacist or Exemptee
- 4308~~Violation of Moscone-Knox Professional Corporation Act~~
- 4306 Violation of Professional Corporation Act as Unprofessional Conduct
- 4306.5 Pharmacist-Misuse of Education, etc. by Pharmacist Outside Course of Practice of  
Pharmacy as Unprofessional Conduct

## Article 20. Prohibitions and Offenses

- 4326 Hypodermics: Obtaining Falsely; MisuseMisdemeanor: Obtaining Needle or Syringe  
by Fraud, etc.; Unlawful Use of Needle or Syringe Obtained from Another
- 4328 Allowing Compounding by Non-pharmacistMisdemeanor: Permitting Compounding,  
Dispensing, or Furnishing by Non-pharmacist
- 4330 Pharmacy; Failure to Place Pharmacist in Charge-, Subverting Compliance with  
Law by Pharmacist in ChargeMisdemeanor: Non-pharmacist Owner Failing to

- 4331 Place Pharmacist in Charge, Dispensing or Compounding Except by Pharmacist, Interfering with Pharmacist in Charge  
~~Veterinary Food-Animal Drug Retailer; Dispensing by Other than Pharmacist or Exemptee; Failure to Place Pharmacist or Exemptee in Charge~~Misdemeanor: Medical Device Retailer, Wholesaler, Veterinary Food-Animal Drug Retailer Failing to Place Pharmacist or Exemptee in Charge, Permitting Dispensing or Compounding Except by Pharmacist or Exemptee
- 4333 ~~Failure to Maintain Prescription Files~~Maintaining Prescriptions, Other Drug Records on Premises, Open to Inspection; Waiver; Willful Failure to Keep or Permit Inspection of Records of Prescriptions, Other Records as Misdemeanor
- 4340 ~~Advertisement of Pharmacy Services by Unregistered Non-Resident Pharmacy~~Unlawful Advertising by Nonresident Pharmacy Not Registered with Board

## Article 22. Unfair Trade Practices

- 4380 Resale of Preferentially Priced Drugs; Emergency Prohibition; Exceptions  
 4381 ~~Violation of Section 4380 as Unfair Competition; Right of Private Action to Enforce~~  
 4382 ~~Authority of Board to May Audit for Compliance~~Sales to Walk-in Customers

## CALIFORNIA CODE OF REGULATIONS, TITLE 16

- 1707.1 ~~Duty to mMaintain mMedication pProfiles (pPatient mMedication rRecords)– requirements for maintenance of patient medication profiles~~
- 1707.2 ~~Notice to eConsumers and dDuty to eConsult– requirements of pharmacist to consult; posting of notice to consumers~~
- 1707.3 ~~Reviewing the patient profile prior to consultation~~Duty to Review Drug Therapy and Patient Medication Record Prior to Deliver
- 1709.1 ~~Designation of pPharmacist in eCharge~~
- 1714.1 ~~Pharmacy Operation dDuring Temporary Absence of a Pharmacist~~
- ~~1721 Self-Assessment of a Pharmacy by the Pharmacist in Charge~~
- ~~1715 Self-Assessment of a Pharmacy by the Pharmacist-in-Charge~~
- 1715.5 ~~Transmitting Schedule II Prescription Information to CURES~~Implementation of Electronic Monitoring of Schedule II Prescriptions
- 1716.1 ~~Compounding Unapproved dDrugs for pPrescriber eOffice uUse~~
- 1716.2 ~~Record rRequirements– when eCompounding for fFuture fFurnishing~~
- 1717.2 ~~Notice of Electronic Prescription Files~~
- 1717.3 ~~Preprinted, mMultiple eCheck-off pPrescription bBlanks~~
- 1723.1 ~~Confidentiality of Examination Questions~~
- 1745 ~~Partial fFilling of Schedule II pPrescriptions~~
- 1751.10 ~~Furnishing to pParenteral pPatient at hHome– carrying and furnishing dangerous drugs to parenteral patients~~
- 1761(a) ~~Erroneous or Uncertain Prescriptions–~~
- 1764 ~~Unauthorized dDisclosure of pPrescriptions– revealing the contents of a prescription to unauthorized persons~~
- 1765 ~~Commissions, gGratuities, and rRebates– commission, gratuity or rebate to a health– care facility~~
- 1766 ~~False or mMisleading aAdvertising~~
- ~~1775.3 Compliance with Orders of Abatement~~
- ~~1782 Reporting Sales of Drugs Subject to Abuse~~

1783      Manufacturer or Wholesaler Furnishing Drugs or Devices  
~~1775.4~~ Compliance with Orders of Abatement  
~~1784~~ Reporting Sales of Drugs Subject to Abuse  
~~1785~~ Manufacturer or Wholesaler Furnishing  
~~1793.1 to~~  
~~1793.7~~      Ancillary personnel—pharmacy technician requirements and tasks  
1793.1      Duties of a Pharmacist  
1793.2      Duties of a Pharmacy Technician  
1793.3      Other Non-Licensed Pharmacy Personnel  
1793.4      Qualifications for Registration as a Pharmacy Technician  
1793.7      Requirements for Pharmacies Employing Pharmacy Technicians  
1793.8      Technicians in Hospitals with Clinical Pharmacy Programs

## HEALTH AND SAFETY CODE, TITLE 22

- 11103 Report of ~~t~~Theft, ~~l~~Loss, or ~~s~~Shipping ~~e~~Discrepancy—reporting losses of restricted chemicals to Department of Justice
- ~~11123 Warehouseman License~~
- ~~11124 Warehouse Inventory~~
- ~~11125 Warehouseman Bond~~
- ~~11128 Nontransferability of Warehouse License~~
- ~~11129 Discipline or Denial of Warehouse License~~
- ~~11130 Disciplinary Grounds for Warehouse License~~
- ~~11131 Disciplinary Grounds for Warehouse License~~
- 11150 Issuing Controlled Substance PrescriptionPersons Authorized to Write or Issue a Prescription
- 11152 Nonconforming ~~p~~Prescriptions Prohibited—filling a prescription that does not conform to the requirements of the code
- 11154 Issuing Prescriptions, etc. Must Be for Treatment; Knowing Soliciting of Unlawful Prescription, etc.
- 11156 Prescribing, etc. Administering or dispensing eControlled sSubstances to aAddict Only as Authorized—prohibition on administering or dispensing a controlled substance to an addict or a habitual user
- 11164 Completion of pPrescriptions for Schedule II, III, IV and- V eControlled sSubstance; Form and Content; Record of Practitioner Dispensing Schedule II Controlled Substance—prescription requirements for controlled substances
- 11165(d) CURES Transmission
- 11166 Time Limit For Filling Schedule II Prescriptions; Knowingly Filling Mutilated, Forged, or Altered Prescriptions Prohibited
- 11170 Prohibition on Prescribing, etc. eControlled sSubstance for sSelf-use—prohibition on ~~prescribing, administering or furnishing controlled substance to self~~
- 11179 Retention of Controlled Substance Prescription period—prescription file to be maintained' for three (3) years
- 11207 Filling prescription eOnly by pPharmacist or iIntern Authorized to Fill Prescription  
pharmacist—dispensing, compounding, filling by pharmacist or intern pharmacist only
- 11209 Delivery and Receiving Requirements for Schedule II, III, and- IV Substances; Violation
- 11350 Possession of ~~s~~Specified ~~e~~Controlled ~~s~~Substance—illegal possession of a narcotic
- 11377 Unlawful pPossession of sSpecified sSubstance—illegal possession of a non-narcotic controlled substance

## CODE OF FEDERAL REGULATIONS, TITLE 21

- 1304.03 Persons required to keep records and file reports.
- 1304.04 Maintenance of records and inventories.
- 1304.11 General Inventory requirements for inventories
- 1304.21 General requirements for continuing records.
- 1304.22 Records for manufacturers, distributors, dispensers, researchers, importers and exporters.
- 1305.07 Power of attorneySpecial procedures for filling certain orders.
- 1305.13 Preservation of order formsProcedure for filling DEA Forms 222.
- 1306.04 Purpose of issue of prescription.



- 1306.06 Persons entitled to fill prescriptions.
- ~~1306.08 Administering or dispensing of narcotic drugs~~
- 1306.11 ~~—Requirement of Schedule II P~~prescriptions.
- 1306.12 Refilling prescriptions. ~~—Schedule II~~
- 1306.13 Partial filling of prescriptions. ~~—Schedule II~~
- 1306.21 Requirement of prescription. ~~—Schedule III and IV~~
- 1306.22 Refilling of prescriptions. ~~—Schedule III and IV~~
- 1306.23 Partial filling of prescriptions. ~~—Schedule III and IV~~

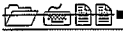
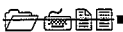



## CATEGORY III

Minimum: Revocation; Revocation stayed, 90 days actual suspension, three to five years probation (five years probation where self-administration or diversion of controlled substances ~~is involved~~ occurred at the licensed premises). All standard terms and conditions and optional terms and conditions as appropriate.

For a licensed premises, a minimum 14-28 days actual suspension.

Maximum: Revocation

Category III discipline is recommended for:

-  ~~most criminal convictions involving dangerous drugs or controlled substances~~
-  ~~knowing or willfully violating laws or regulations pertaining to dispensing or distributing dangerous drugs or controlled substances~~
-  ~~fraudulent acts committed in connection with the licensee's practice~~
-  ~~drug shortages~~
-  ~~violation of a licensee's corresponding responsibility.~~

Violations of the following codes are as follows representative of this category:

## BUSINESS AND PROFESSIONS CODE

### Article 3. Scope of Practice and Exemptions

- 4051(a) ~~Conduct Limited To~~ Pharmacist
- 4060 ~~Furnishing without prescription~~
- 4059 Furnishing Dangerous Drugs or Devices Prohibited Without Prescription: Exceptions
- 4059.5 ~~Ordering Who May Order~~ Dangerous Drugs or Devices: Exceptions

### Article 5. Authority of Inspectors

- 4080 Stock of Dangerous Drugs and Devices Kept Open for Inspection
- 4081 ~~Records of Acquisition and Dispensing; Dangerous Drugs and Devices Kept Open for Inspection; Maintenance of Records, Current Inventory~~
- 4085(a) Unlawful to Remove, Sell, Dispose of Embargoed Dangerous Drug or Dangerous Device

### Article 7. Pharmacies

- 4110 ~~Requirement of License Required; Temporary Licenses~~ Permit Upon Transfer of Ownership
- 4111 Restrictions on Prescriber Ownership ~~by Prescribers Prohibited~~

### Article 11. Wholesalers and Manufacturers

- 4169(a)(2) to
- 4169(a)(5) Prohibited Acts

## Article 15. Veterinary Food-Animal Retailers

4199      Labeling, Recordkeeping Requirements; Maintaining Prescription Records

## Article 19. Disciplinary Proceedings

4301      Unprofessional Conduct - Subsections (i) and (k) and (o)  
4307      Prohibition against Association with an Individual with Entity License by Board:  
Length of Prohibition; Individuals Covered; Imposition of Prohibition Through  
Administrative Act Proceeding  
4308      Notification of Licensee Person is Prohibited from Association;  
Replacement Notification of Affected Licensees Known to Board

## Article 20. Prohibitions and Offenses

4322      Misdemeanor or Infraction: False Representations to Obtain Secure License for Self  
or Others; False Representation of Licensure; Penalties  
4323      Misdemeanor: False Representation of Self as Physician, Agent of Physician, etc.  
by Telephone or Electronic Transmission to Obtain a Drug  
4324      Felony or Misdemeanor: Forgery of Prescription; Possession of Drugs Obtained  
Through Forged Prescription or Alteration  
4325      Misdemeanor: Manufacture, Possession, etc. of False Producing Prescription  
Blanks Without Authorization  
4327      Misdemeanor: Sale, Dispensing, or Compounding While Under the Influence Use of  
Alcohol or Drugs while on Duty or Alcoholic Beverages  
4329      Misdemeanor: Non-pharmacist Taking Charge Acting as Manager, Compounding,  
Dispensing or Furnishing Drugs  
4332      Misdemeanor: Failure or Refusal to Maintain or Produce or Provide Required Drug  
or Device Records; Willful Production of False Records  
4335      Voided License: Knowing Failure to Arrange for Disposition of Stock as  
Misdemeanor  
4336      Felony: Knowing or Willful Use of Minor to Violate Specified Sections of Pharmacy  
Law: Exception for Pharmacist Furnishing Pursuant to a Prescription  
4052 Failure to Arrange for Transfer of Stock after Closure  
4053 Use of Minor as Agent to Violate Pharmacy Law

## Article 22. Unfair Trade Practices

4380      Resale of Preferentially Priced Drugs: Prohibition; Exceptions

## CALIFORNIA CODE OF REGULATIONS, TITLE 16

1718      Current Inventory Defined—audit accountability of dangerous drugs  
1761(b)      Controlled substance prescription—professional judgment Erroneous or Uncertain  
Prescriptions  
1771 to  
1774      Disciplinary conditions of suspension and probation  
1771      Posting of Notice of Suspension  
1772      Disciplinary Condition of Suspension

1773	<u>Disciplinary Conditions of Probation of Pharmacist</u>
1774	<u>Disciplinary Conditions of Probation of Permit</u>






## HEALTH AND SAFETY CODE, TITLE 22

11104	<u>Providing <del>Chemical</del> for Illicit Manufacturing; Evasion of Reporting Requirements; Penalties</u> <u>controlled substances for manufacturing</u>
11105	<u>False Statement in Report</u>
<del>11122</del>	<del>Storage of Controlled Substances</del>
11150	<u>Persons <del>a</del>Authorized to <del>w</del>Write or <del>i</del>ssue a <del>p</del>Prescription</u>
11153	<u>Responsibility for <del>Legitimacy of</del>controlled substance <del>p</del>Prescription; Corresponding Responsibility of Pharmacist</u> <del>—corresponding responsibility of a pharmacist</del>
11153.5	<u>Wholesaler or Manufacturer Furnishing a <del>c</del>Controlled <del>s</del>Substance for <del>e</del>Other <del>t</del>han for a <del>l</del>egitimate <del>m</del>edical <del>p</del>urpose; Knowing Violation; Factors in Assessing Legitimacy</u> <del>—corresponding responsibility of a wholesaler or manufacturer</del>
11157	<u>No False or <del>f</del>ictitious <del>p</del>rescriptions</u> <del>—issuing a false or fictitious prescription</del>
11162.5	<u>Counterfeiting or <del>p</del>ossession of <del>e</del>Counterfeit <u>Triplicate</u> <del>p</del>rescription <del>b</del>Blank; Penalty</u>
11167.5	<u>Pharmacy Generated Prescription for Schedule II Controlled Substance in a Skilled Nursing Facility</u>
11173	<u>Fraud, <del>d</del>Deceit, <del>m</del>Misrepresentation or <del>f</del>False <del>s</del>Statement; False Representation; False Label</u> <del>—obtaining controlled Substances by fraud or deceit</del>
11174	<u>Prohibition on Providing False <del>n</del>Name or <del>a</del>Address in Connection with Prescription, etc.</u> <del>—false name or address on prescription</del>
11351	<u>Possession or <del>p</del>urchase for <del>s</del>ale of <del>s</del>pecified <del>e</del>Controlled <del>s</del>ubstance</u> <del>—illegal possession for sale of a narcotic</del>
11368	<u>Forged or <del>a</del>ltered <del>p</del>rescriptions</u> <del>—forging a narcotic prescription</del>
11375	<u>Possession for <del>s</del>ale or <del>s</del>elling <del>s</del>pecified <del>s</del>ubstance</u>
11378	<u>Possession for <del>s</del>ale</u> <del>—illegal possession for sale of a nonnarcotic</del>
11550	<u>Using or <del>b</del>eing <del>u</del>nder the <del>i</del>nfluence of <del>e</del>Controlled <del>s</del>ubstance</u>
111295	<u>Manufacturing, Selling or Offering for Sale an Adulterated Drug or Device</u>
111300	<u>Unlawful to Adulterate a Drug</u>
111305	<u>Unlawful to Receive in Commerce an Adulterated Drug</u>
111440	<u>Unlawful Manufacturer, selling a misbranded Drug</u>
111445	<u>Unlawful for a Person to Misbrand</u>
111450	<u>Unlawful to Receive into Commerce a Drug that is Misbranded</u>




## CATEGORY IV

Penalty: Revocation

Revocation is recommended for violations of the Uniform Controlled Substance Act (Heath and Safety Code 11000 et seq.) involving:

-  possession for sale
-  transportation
-  importation
-  sale
-  use of a minor for the unlawful sale of controlled substances

Revocation is also recommended when:

-  a respondent fails to file a notice of defense or to appear at a disciplinary hearing where the board has requested revocation in the accusation
-  a respondent violates the terms and conditions of probation from a previous disciplinary order
-  prior discipline has been imposed, as progressive discipline unless the respondent can demonstrate satisfactory evidence of rehabilitation.

Violations of the following codes are as follows representative of this category:

## HEALTH AND SAFETY CODE, TITLE 22

- 11352      Importing, ~~sSelling~~, ~~fFurnishing~~ ~~eControlled~~ ~~sSubstance~~—~~illegal sale of a narcotic~~
- 11353      Adult ~~iInducing~~ ~~mMinor~~ to ~~vViolate~~ ~~controlled substances~~ ~~pProvisions~~
- 11379      Transporting, ~~iImporting~~, ~~sSelling~~ ~~eControlled~~ ~~sSubstances~~—~~illegal sale of a non-narcotic~~
- 11380      Adult ~~uUsing~~, ~~sSoliciting~~ or ~~iIntimidating~~ ~~mMinor~~ for ~~vViolation~~—~~violation of non-narcotic provisions or the use of a minor~~

## MODEL DISCIPLINARY LANGUAGE - PREMISES

The following standardized language shall be used in every decision where the order or condition is imposed.

### Revocation—Single Cause

License number \_\_\_\_\_, issued to respondent \_\_\_\_\_, is revoked.

**For premises:** Respondent owner shall, by the effective date of this decision, arrange for the destruction of, the transfer to, sale of or storage in a facility licensed by the board of all controlled substances and dangerous drugs and devices. Respondent owner shall provide written proof of such disposition, submit a completed Discontinuance of Business form and return the wall and renewal license to the board within five days of disposition.

Respondent owner shall also, by the effective date of this decision, arrange for the continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five days of its provision to the pharmacy's ongoing patients, Respondent owner shall provide a copy of the written notice to the board. For the purposes of this provision, "ongoing patients" means those patients for whom the pharmacy has on file a prescription with one or more refills outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60) days.

### Revocation—Multiple Causes

License number \_\_\_\_\_, issue to respondent \_\_\_\_\_ is revoked pursuant to Determination of Issues \_\_\_\_\_, separately and together.

**For premises:** Respondent shall, by the effective date of this decision, arrange for the destruction of, the transfer to, sale of or storage in a facility licensed by the board of all controlled substances and dangerous drugs and devices. Respondent shall provide written proof of such disposition to the board within five days of disposition.

### Suspension—Single Cause

License number \_\_\_\_\_, issued to respondent \_\_\_\_\_ is suspended for a period of \_\_\_\_\_ days beginning the effective of this decision.

Respondent shall cease all pharmacy operations during the period of suspension. Failure to comply with this suspension shall be considered a violation of probation.

### Suspension—Multiple Causes

Respondent is suspended from \_\_\_\_\_ operations for \_\_\_\_\_ beginning the effective date of this decision.

## Standard Stay/Probation Order

License number \_\_\_\_\_, issued to respondent is ~~revoked~~ \_\_\_\_\_; however, the ~~revocation~~ \_\_\_\_\_ is stayed and respondent is placed on probation for \_\_\_\_\_ years upon the following terms and conditions:

### **Issuance of Probationary License** (In cases where a Statement of Issues has been filed.)

~~The application for licensure of respondent is hereby granted, on the following terms and conditions:~~

- ~~3. That, respondent first meet all statutory and regulatory requirements for the issuance of a license to \_\_\_\_\_.~~
- ~~2. That, following the satisfaction of #1, respondent's license be issued and immediately revoked, the order of revocation being stayed and respondent placed on probation for a period of \_\_\_\_\_ years on the following terms and conditions:~~

Upon satisfaction of all statutory and regulatory requirements for issuance of a license, a license shall be issued to respondent and immediately revoked; the order of revocation is stayed and respondent is placed on probation for \_\_\_\_\_ years upon the following terms and conditions:

### **Surrender**

Respondent owner surrenders license number \_\_\_\_\_ as of the effective date of this decision. Respondent owner shall relinquish ~~his or her~~ the premises wall license and pocket renewal license to the board within ten (10) days of the effective date of this decision.

The surrender of respondent's license and the acceptance of the surrendered license by the board shall constitute the imposition of discipline against respondent. This decision constitutes a record of discipline and shall become a part of respondent's license history with the board.

Respondent owner shall, within ten (10) days of the effective date, arrange for the destruction of, the transfer to, sale of or storage in a facility licensed by the board of all controlled substances and dangerous drugs and devices. Respondent owner shall further provide written proof of such disposition and submit a completed Discontinuance of Business form according to board guidelines.

Respondent owner shall also, by the effective date of this decision, arrange for the continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five days of its provision to the pharmacy's ongoing patients, Respondent owner shall provide a copy of the written notice to the board. For the purposes of this provision, "ongoing patients" means those patients for whom the pharmacy has on file a prescription with one or more refills outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60) days.

Respondent owner understands and agrees that if he or she ever files an application for a licensed premises or a petition for reinstatement in the State of California, the board shall treat it as a new application for licensure.

Respondent owner may not reapply for any license, ~~permit, or registration~~ from the board for three (3) years from the effective date of this decision. Respondent owner stipulates that should he or she apply for any license from the board on or after the effective date of this decision, all allegations set forth in the [accusation or petition to revoke probation] shall be deemed to be true, correct and admitted by respondent when the board determines whether to grant or deny the application. Respondent shall satisfy all requirements applicable to that license as of the date the application is submitted to the board, ~~including, but not limited to taking and passing the California Pharmacist Licensure Examination prior to the issuance of a new license~~. Respondent is ~~obligated~~ required to report this surrender as disciplinary action.

Respondent owner further stipulates that he or she shall reimburse the board for its costs of investigation and prosecution in the amount of \$\_\_\_\_\_ within \_\_\_\_\_ days of the effective date of this decision.

**Option:** Respondent owner stipulates that should he or she apply for any license from the board on or after the effective date of this decision the investigation and prosecution costs in the amount of \$\_\_\_\_\_ shall be paid to the board prior to issuance of the new license.

### **Public Reprimand**

It is hereby ordered that a public reprimand be issued against licensee, \_\_\_\_\_.  
Respondent owner is required to report this reprimand as a disciplinary action.

### **Adoption of Stipulation**

It is understood by respondent owner that, in deciding whether to adopt this stipulation, the board may receive oral and written communication from its staff and the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the board or other persons from future participation in this or any other matter affecting respondent. In the event this settlement is not adopted by the board, the stipulation will not become effective and may not be used for any purpose, except this paragraph, which shall remain in effect.



**STANDARD CONDITIONS** - To be included in all probation decisions/orders.

Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page \_\_\_\_\_.)

1. Obey ~~a~~All laws
2. Reporting to the Board
3. Interview with the Board
4. Cooperatione with Board Staff
5. Reimbursement of Board Costs
6. Probation Monitoring Costs
7. Status of License
8. License Surrender ~~w~~While on Probation/Suspension
9. Notice to Employees
10. Owners and Officers: Knowledge of the ~~l~~Law
11. Posted Notice of Probation
- ~~11.~~12. Violation of Probation
- ~~12.~~13. Completion of Probation

**OPTIONAL CONDITIONS**

Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page \_\_\_\_\_.)

- ~~1.~~Actual Suspension
- ~~2.~~14. Community Services Program
- ~~3.~~15. Restitution
- ~~4.~~16. Separate File of Records
- ~~5.~~17. Report of Controlled Substances
- ~~6.~~18. Surrender of DEA Permit
- ~~7.~~19. Posted Notice of Suspension

## STANDARD CONDITIONS: TO BE INCLUDED IN ALL PROBATIONS

### **1.1. Obey All Laws**

Respondent owner shall obey all state and federal laws and regulations ~~substantially related to or governing the practice of pharmacy.~~

Respondent owner shall report any of the following occurrences to the board, in writing, within seventy-two (72) hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state ~~and or~~ federal agency which involves respondent's \_\_\_\_\_ license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distributing, ~~or billing,~~ or charging for ~~of any~~ drug, device or controlled substance.

Failure to timely report any such occurrence shall be considered a violation of probation.

### **2.2. Reporting to the Board**

Respondent owner shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, Respondent owner shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the board.

### **3.3. Interview with the Board**

Upon receipt of reasonable prior notice, respondent owner shall appear in person for interviews with the board ~~or its designee, upon request at various such intervals at and locations to be as~~ are determined by the board or its designee. Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear for two (2) or more scheduled interviews with the board or its designee during the period of probation, shall be considered a violation of probation.

### **4.4. Cooperation with Board Staff**

Respondent owner shall cooperate with the board's inspectional program and ~~in with the~~ board's monitoring and investigation of respondent's compliance with the terms and conditions of his or her probation. Failure to ~~comply~~ cooperate shall be considered a violation of probation.

### **5.5. Reimbursement of Board Costs**

As a condition precedent to successful completion of probation, Respondent owner shall pay to the board its costs of investigation and prosecution in the amount of \$\_\_\_\_\_. Respondent owner shall make said payments as follows: \_\_\_\_\_. There shall be no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by respondent owner shall not relieve respondent of his or her responsibility to reimburse the board its costs of investigation and prosecution.

~~Option: If respondent owner fails to make any payment by the directed deadline(s), the stay shall terminate and the license shall be revoked without further notice or opportunity to be heard.~~

### **6.6. Probation Monitoring Costs**

Respondent owner shall pay the any costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board at the end of each year of probation on a schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

### **7.7. Status of License**

Respondent owner shall, at all times while on probation, maintain a current licensure with the board. If respondent owner submits an application to the board, and the application is approved, for a change of location, change of permit or change of ownership, the board shall retain continuing jurisdiction over the license, and the respondent shall remain on probation as determined by the board. Failure to maintain current licensure shall be considered a violation of probation.

If respondent license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof or otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

### **8.8. License Surrender wWhile on Probation/Suspension**

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation owner discontinue business, respondent owner may tender his or her the premises license to the board for surrender. The board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation.

Upon acceptance of the surrender, respondent owner shall relinquish his or her pocket the premises wall and renewal license to the board within ten (10) days of notification by the board that the surrender is accepted. Respondent owner shall further submit a completed Discontinuance of Business form according to board guidelines and shall notify the board of the records inventory transfer.

Respondent owner shall also, by the effective date of this decision, arrange for the continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five days of its provision to the pharmacy's ongoing patients, Respondent owner shall provide a copy of the written notice to the board. For the purposes of this provision, "ongoing patients" means those patients for whom the pharmacy has on file a prescription with one or more refills outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60) days.

Respondent owner may not reapply for any ~~license~~ new licensure from the board for three (3) years from the effective date of the surrender. Respondent owner shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.

Respondent owner further stipulates that he or she shall reimburse the board for its costs of investigation and prosecution prior to the acceptance of the surrender.

#### **9.9. Notice to Employees**

Respondent owner shall, upon or before the effective date of this decision, ensure that all employees involved in permit operations are made aware of all the terms and conditions of probation, either by posting a notice of the terms and conditions, circulating such notice, or both. If the notice required by this provision is posted, it shall be posted in a prominent place and shall remain posted throughout the probation period. Respondent owner shall ensure that any employees hired or used after the effective date of this decision are made aware of the terms and conditions of probation by posting a notice, circulating a notice, or both. Additionally, respondent owner shall submit written notification to the board, within fifteen (15) days of the effective date of this decision, that this term has been satisfied. Failure to submit such notification to the board shall be considered a violation of probation.

"Employees" as used in this provision includes all full-time, part-time, volunteer, temporary and relief employees and independent contractors employed or hired at any time during probation.

#### **40.10. Owners and Officers: Knowledge of the Law**

Respondent shall provide, within thirty (30) days after the effective date of this decision, signed and dated statements from its owners, including any owner or holder of ten percent (10%) or more of the interest in respondent or respondent's stock, and any officer, stating under penalty of perjury that said individuals have read and are familiar with state and federal laws and regulations governing the practice of pharmacy. The failure to timely provide said statements under penalty of perjury shall be considered a violation of probation.

#### **11. Posted Notice of Probation**

Respondent owner shall prominently post a probation notice provided by the board in a place conspicuous and readable to the public. The probation notice shall remain posted during the entire period of probation.

Respondent owner shall not, directly or indirectly, engage in any conduct or make any statement which is intended to mislead or is likely to have the effect of misleading any patient, customer, member of the public, or other person(s) as to the nature of and reason for the probation of the licensed entity.

Failure to post such notice shall be considered a violation of probation.

#### **41.12. Violation of Probation**

If a respondent owner has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent license, and probation shall be automatically extended until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.

If respondent owner violates probation in any respect, the board, after giving respondent owner notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which that was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction and the period of probation shall be automatically extended, until the petition to revoke probation or accusation is heard and decided.

~~If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.~~

#### **42.13. Completion of Probation**

Upon written notice by the board or its designee indicating successful completion of probation, respondent's license will be fully restored.

## OPTIONAL CONDITIONS OF PROBATION

### 1. ~~Actual Suspension~~

~~As part of probation, respondent pharmacy is suspended from the operation of pharmacy for \_\_\_\_\_ days beginning the effective date of this decision.~~

~~During suspension, respondent pharmacy may not order, maintain or dispose of any dangerous drugs and devices or controlled substances. The pharmacy may not make demand or bill for any drugs or services during the period of suspension and may not process any claims for pharmacy services during the period of suspension, except as to services rendered prior to the effective date of the suspension period. The pharmacy shall not receive or transmit any prescription, new or refill, during the period of suspension. Where the pharmacy does not maintain dangerous drugs and devices or controlled substances in an area which can be closed off from the rest of the pharmacy and locked, the entire pharmacy must be closed during the period of suspension.~~

### 2. ~~14.~~ **Community Services Program**

Within sixty (60) days of the effective date of this decision, respondent owner shall submit to the board or its designee, for its prior approval, a community service program in which respondent shall provide free health-care related services on a regular basis to a community or charitable facility or agency for at least \_\_\_\_\_ hours per \_\_\_\_\_ for the first \_\_\_\_\_ of probation.

Within thirty (30) days of board approval thereof, respondent owner shall submit documentation to the board demonstrating commencement of the community service program. Respondent owner shall report on progress with the community service program in the quarterly reports.

Failure to timely submit, commence, or comply with the program shall be considered a violation of probation.

### 3. ~~15.~~ **Restitution** (Appropriate in cases of drug diversion, theft, fraudulent billing, or patient harm resulting from negligence or incompetence.)

~~Within \_\_\_\_\_ days of the effective date of this decision, respondent owner shall pay restitution to \_\_\_\_\_ in the amount of \$ \_\_\_\_\_. Failure to make restitution by this deadline shall be considered a violation of probation.~~

### 4. ~~16.~~ **Separate File of Records**

Respondent owner shall maintain and make available for inspection a separate file of all records pertaining to the acquisition or disposition of all controlled substances. Failure to maintain such file or make it available for inspection shall be considered a violation of probation.

### 5. ~~17.~~ **Report of Controlled Substances**

Respondent owner shall submit quarterly reports to the board detailed the total acquisition and

disposition of such controlled substances as the board may direct. Respondent owner shall specify the manner of disposition (e.g., by prescription, due to burglary, etc.) or acquisition (e.g., from a manufacturer, from another retailer, etc.) of such controlled substances. Respondent owner shall report on a quarterly basis or as directed by the board. The report shall be delivered or mailed to the board no later than ten (10) days following the end of the reporting period. Failure to timely prepare or submit such reports shall be considered a violation of probation.

#### **6.18. Surrender of DEA Permit**

Within thirty (30) days of the effective date of this decision, Respondent pharmacy shall surrender its federal Drug Enforcement Administration (DEA) permit to the DEA, for cancellation within 30 days of the effective date of this decision. Respondent pharmacy shall provide documentary proof of such cancellation to the board or its designee. Thereafter, respondent pharmacy shall not apply/reapply for a DEA registration number without the prior written consent of the board or its designee.

**Option:** Respondent pharmacy may obtain a DEA permit restricted to Schedule(s) \_\_\_\_\_ controlled substance(s).

**Option:** Respondent pharmacy shall not order, receive, or retain any federal order forms, including 222 forms, for controlled substances.

#### **7.19. Posted Notice of Suspension**

Respondent owner shall prominently post a suspension notice provided by the board in a place conspicuous and readable to the public. The suspension notice shall remain posted during the entire period of actual suspension ordered by this decision.

Respondent owner shall not, directly or indirectly, engage in any conduct or make any statement, orally, electronically or in writing, which is intended to mislead or is likely to have the effect of misleading any patient, customer, member of the public, or other person(s) as to the nature of and reason for the closure of the licensed entity.

2/27/2004/2007